

ELDER CARE GUIDE

**Sifting Through Complex Housing and Care Options -
Organized by Facility or Provider License or Registration**

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DISCLAIMER NOTE: This Guide is intended to provide current and accurate information about elder housing and care options to help professionals, such as attorneys, social workers, and those in the medical and elder care profession, better understand the statutory regulations governing such options. This publication does not render legal or professional advice and does not represent the opinion of any organizations funding the publication of this Guide. Professionals using this publication to advise clients should also consult original authority.

OVERVIEW

NAME	OTHER NAMES	DEPT	LICENSE OR REGIS	LEVEL OF CARE	DESCRIPTORS
Nursing Home	Skilled Nursing Facility	MDH	License	High	Room & Board; 24 Hour nursing services
Boarding Care Home	Nursing Facility	MDH	License	High-Med	Room & Board; 24 Hour nursing services
Veteran's Home	Medicaid Certified Beds	DVA	License	High-Med	Room & Board; 24 Hour nursing services
Supervised Living Facility	Intermediate Care Facility	MDH/DHS	Two Licenses	High	Room & Board; Supervision; May offer low level nursing services
Adult Foster Care	Residential Group Home; Memory Care	DHS/ County	License	High	Room & Board; Supervision; Personal Care; Medication assistance
Memory Care	Alzheimer's Care	MDH		High-Med	Care in various settings for those with cognitive decline; Staff must be trained in Memory care
Housing with Services Establishment	Senior Housing with Services	MDH	Regis	Med	Provide health or supportive services to 1 or more adults
Home Care					
Class A	Home Care; Senior Housing with Services	MDH	License	High-Low	Nursing or health aide tasks; Home care; in Residence or HWS; May be Assisted Living
Class B	Home Care	MDH	License	Low	Home care aide; Home management; in Residence
Class C	Home Care	MDH	License	Low	Home health aide; Home care aide; Home management; in Residence
Class F	Senior Housing with Services	MDH	License	Med	Nursing services; Home care; in HWS; May be assisted living
Assisted Living		MDH	Title Protect	Med	Class A or F license; Meet requirements of 144G
Adult Day Services Center		DHS	License	High-Low	Day services; Not in license holder home

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Family Adult Day Services		DHS/ County	License	High-Low	Day services; In license holder's home; Age 55+
Board & Lodging with Special Services		MDH/ Environmtl	License & Regis	Low - No Care	Room & Board; Medication assistance; Low level health services
Home Management Registration		MDH	Regis	No Care	Housekeeping, meal preparation, shopping only
Hospice		MDH	License	Temp	Home care or hospice services during last days
Hospital		MDH	License	Temp	Full nursing services
Supplemental Nursing Services Agency		MDH	Regis	Temp	Temporary nursing staff in health care facility
Mobile Health Evaluation & Screening		MDH	Regis	Temp	Mobile health unit providing health evaluation
Outpatient Surgical Center		MDH	License	Temp	Surgical services
Senior Home Companion		Board on Aging		Low	Services to low income elders; In home or facility
Vaccination Vendor	Senior Center Flu Clinic	MDH	Certifict	Low	Vaccinations at senior centers & off-site facilities
Swing Bed		MDH	License Condition	Temp	Hospital wing for transitional care; Medicare certified
Medicare Special Facilities		MDH	License	Varies	Mental Health Cntr; Renal dialysis; Rehab Agency; Portable X-Ray; Rural Health Clinic; FQHC

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SECTION 1:

GENERAL INFORMATION

FOR ALL HOUSING AND CARE OPTIONS

PURPOSE AND OVERVIEW

PURPOSE OF THIS GUIDE

Consumer choice is powerful, if the choices are understood. Senior care in Minnesota is as complex as the varying needs of individual seniors. Some seniors require a high level of medical care in a facility, while some seniors can live in their own home with occasional non-medical care from a visiting aide. In between, the highly dependent and highly independent senior lays a myriad of seniors requiring a mixture of medical and non-medical care. A senior or loved one must make informed decisions regarding care. Many options exist, which may change over time. Informed decisions require both assessment of the senior's needs and understanding whether the facility can meet those needs. For example, if the senior requires administration of medication or a periodic health review, a board and lodging facility will likely not meet the senior's needs. ***Making informed consumer choices and avoiding misplacement is the main objective of this Guide.***

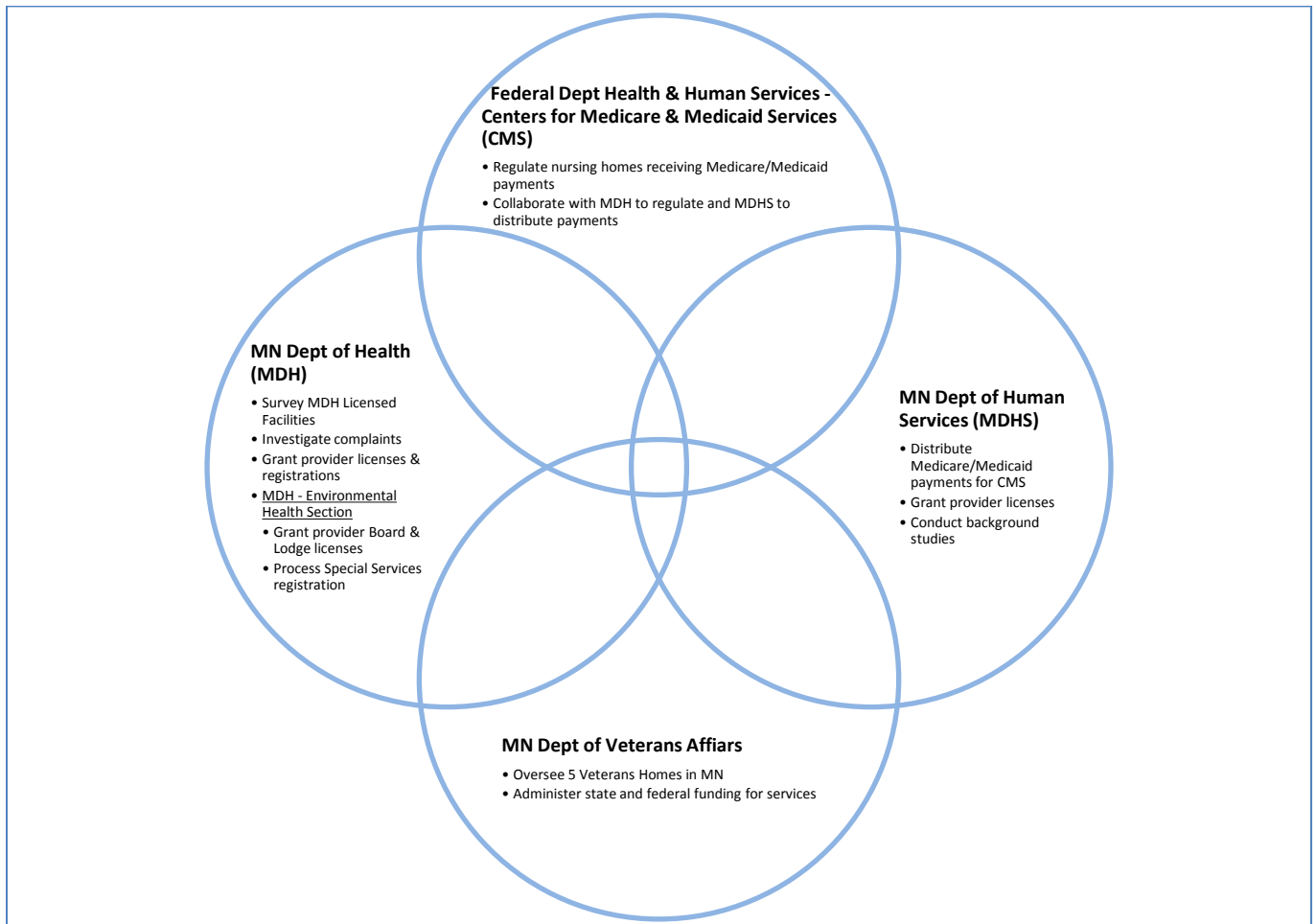
The Guide focuses on the type of license or registration held by a facility or provider and the corresponding standards of care based on that license or registration. Although by no means exhaustive, the information presented also touches on many peripheral issues related to choosing an appropriate housing or care option, such as Medicare and staffing issues. The Guide is generally organized by providing general information related to all types of housing or care options followed by detailed information on specific licenses or registrations.

OVERVIEW OF MINNESOTA'S ELDER CARE SYSTEM

Main Government Agencies –

Four main agencies regulate senior care in Minnesota. First, the Federal Government Health and Human Services Department, under the Centers for Medicare and Medicaid Services (CMS), regulates facilities taking Medicare and Medicaid payments, such as nursing homes. Second, the Minnesota Department of Health (MDH) works in conjunction with CMS to survey nursing home facilities and ensure Medicare/Medicaid facilities comply with federal and state law. The MDH also provides state licenses and registrations for many senior care options including nursing homes, boarding care homes, home care providers (Class A, B, C, and F licenses), housing with services registration, home management registration, and board and lodging. Third, the Minnesota Department of Human Services (DHS) works in conjunction with CMS to make Medicare/Medicaid payments. The DHS also grants licenses to certain senior care options such as adult foster care, adult day services, and residential homes for mentally and physically impaired individuals. The DHS works in conjunction with the MDH to provide background checks on potential employees of senior care facilities. Finally, the Minnesota Department of Veterans Affairs (MDVA) oversees the operation of Veterans Homes in Minnesota.

Figure 1 - Overview of Government Involvement in Elder Care



Old v. New Regulations –

In the last 10 years, Minnesota Law has significantly changed its regulatory scheme to expand the marketplace of care options for seniors and providers. Please be aware of the old v. new terminology as a result of the changes. For instance, in the past, a facility may have been licensed as “boarding care home” but is often now licensed as a “nursing home.” An “adult foster care” or “board & lodging” facility may now be registered as a “housing with services establishment.” Also, the term “assisted living” is now a title only, replaced by a similar “Class F” license. Please be aware that some facilities maintain the old regulatory licensure and standards of care while other facilities have transitioned to new regulatory licensing and registration.

SELECTING LONG TERM CARE

Selecting a long term care facility can be a complex endeavor, depending on the priorities for placement and the medical need of the resident. The following are tips and resources to consider prior to selecting a housing or care option.

TIP: *Make Informed Choices.* Ask questions and gather information *before* entering into an agreement with a housing or care provider to help ensure a good fit, such as:

- Assess your health needs now and over the next ten years
- Ask the provider how they will assist you in securing additional services as your health needs progress
- Assess your desired level of autonomy
- Remember that in any facility, you may bring in your own services, if the facility does not offer certain services to meet your needs
- Determine what license or registration the provider holds (often posted at a facility) and investigate any surveys or complaints on the facility (*see “TIP” on page 5*)
- Ask about the process to give feedback and make complaints and how the provider responds
- Ask whether the provider has a “resident advisory” or “family” council, which allows residents and family members to receive education and discuss concerns (*see “TIP” on page 26*)
- Determine cost of stay and source of payments, such as Medicare or Medical Assistance, and the implications of receiving certain payments (*see “Payment Information” on page 24*)
- Ask for a copy of the admissions, housing and/or services contract to review prior to entering into an agreement with the provider or program
- Determine who should be responsible for your financial and health decisions, including whether a health care directive or power of attorney is desired or necessary
- Determine who should sign an admission agreement and what duties arise for the signor
- Consider all factors, including family considerations, geography, special health needs, and the senior’s wishes, including a desire to not have services
- Visit the nursing home or provider at mealtime and bedtime to see how staff interacts with residents.

When selecting a nursing home or other long term care facility, consult additional resources to make an informed choice. The following are resources available to view various pieces of information by provider; by consumer priorities; by health care condition; and by local agency:

- “Nursing Home Compare” - <http://www.medicare.gov/NHCompare> (provides comprehensive data on each nursing home; operated by the federal government)
- “Nursing Home Selection” - <http://www.health.state.mn.us/nhreportcard/> (searches for nursing homes based on the criteria most important to consumer; website co-sponsored by Minnesota’s DHS and MDH departments)
- “Nursing Facility Rates and Policy Division” information through the DHS available at: http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_000268 (information on nursing homes by county, city, and provider name, plus other resources)
- Minnesota Help Info - <http://longtermcarechoices.minnesotahelp.info/> (guides user through a process of selecting a long term care option based on various factors)
- Minnesota Health Scores - <http://www.mnhealthscores.org/?p=home> (allows a search based on medical condition)
- Long Term Care Living (Consumer information on nursing home and assisted living providers) - <http://www.longtermcareliving.com/>
- Eldercare Locator - <http://www.eldercare.gov/Eldercare.NET/Public/Home.aspx> (helps find local agencies to assist in getting services)

TIP: Do Your Homework. Not all facilities are equal. Consult the following resources to find survey, complaint and investigation information on facilities prior to choosing a care provider:

- Investigation of Complaints by the MDH at: <http://www.health.state.mn.us/divs/fpc/directory/surveyapp/provcompselect.cfm>
- “Medicare Certified Home Health Agency Survey Information” periodically conducted by MDH at: <http://www.health.state.mn.us/divs/fpc/directory/hhasurveyoutput.cfm>
- “Assisted Living Reviews” periodically conducted by MDH at: <http://www.health.state.mn.us/divs/fpc/profinfo/cms/als/alsreviewresults.html>
- “Class A” Home Care Provider Survey results conducted by MDH at: <http://www.health.state.mn.us/divs/fpc/directory/hhasurveyoutput.cfm>
- “Class F” Home Care Provider Survey results conducted by MDH at: <http://www.health.state.mn.us/divs/fpc/profinfo/cms/alhcp/alhcpsurveyresults.htm>
- Contact the MDH Compliance Monitoring Division to request a summary report of deficiencies found during surveys from the Centers for Medicare and Medicaid Services (CMS) Online Survey Certification and Reporting System (OSCAR), called “Oscar Reports” at:
 - Minnesota Department of Health - Compliance Monitoring Division
P.O. Box 64900
St. Paul, Minnesota 55164-0900
- “Annual Quality Improvement Report on the Nursing Home Survey Process” at: <http://www.health.state.mn.us/divs/fpc/2007QINHreport.pdf>

KEY STATUTES AND REGULATIONS

Federal

- **Health & Supportive Services**
 - OBRA Regulations (Requirements for Long Term Care Facilities) – 42 C.F.R. § 483, Subp. B
 - Requirements for, and Assuring Quality of Care in, Skilled Nursing Facilities (Medicare/Federal Funded; Social Security Act § 1819) – 42 U.S.C. 1395i-3
 - Requirements for Nursing Facilities (Medicaid/State Funded; Social Security Act § 1919) – 42 U.S.C. 1396r
- **Patient Rights**
 - Americans with Disabilities Act of 1990 (ADA) & ADA Amendments Act of 2008 – 42 U.S.C. § 12101 *et seq.*
 - Rehabilitation Act of 1973, Section 504; 29 U.S.C. § 701 *et seq.*
 - Requirements Relating to Residents' Rights (Medicare) – 42 U.S.C. § 1395i-3(c)
 - Requirements Relating to Residents' Rights (Medicaid)– 42 U.S.C. § 1396r(c)
 - OBRA Regulations (Resident Rights) - 42 CFR § 483.10
- **Housing**
 - Fair Housing Act (Prohibits Discriminatory Housing Practices Based on Disability and Other Factors) – 42 U.S.C. § 3604(f); 24 C.F.R. 100
- **Payment**
 - Medicare (Health Insurance for Aged and Disabled) - 42 U.S.C. § 1395
 - Medicaid
 - State Plans for Medical Assistance - 42 U.S.C. § 1396a
 - Payment to States – 42 U.S.C. § 1396b

State

- **Health & Supportive Services**
 - Nursing Homes – Minn. Stat. §§ 144A.01-.37; Minn. R. 4658 *et al*
 - Veteran's Homes – Minn. Stat. §§ 198 *et al*; Minn. R. 9050 *et al*
 - Boarding Care Homes – Minn. Stat. §§ 144.50-144.56; Minn. R. 4655 *et al*
 - Home Care Licensure Law – Minn. Stat. § 144A.43-.48; Minn. R. 4668
 - Housing with Services Establishment Act – Minn. Stat. § 144D
 - Assisted Living Services – Minn. Stat. § 144G
 - Memory Care – Minn. Stat. §§ 144.6503; 144D.065; 144A.45, Subd. 5; and 245A.04, Subd. 12
- **Patient Rights**

- Assisted Living Bill of Rights Addendum– Minn. Stat. § 144A.441
- Health Care Bill of Rights – Minn. Stat. § 144.651
- Home Care Bill of Rights – Minn. Stat. § 144A.44
- Hospice Bill of Rights – Minn. Stat. § 144A.751
- Maltreatment of Minors Act – Minn. Stat. § 626.556
- Minnesota Human Rights Act – Minn. Stat. § 363A
- Vulnerable Adults Act – Minn. Stat. § 626.557 -.5573
- **Employee Regulation**
 - Nurse Practice Act – Minn. Stat. §§ 148.171-148.285
 - Criminal Background Study – Minn. Stat. §§ 144.057 & 245C *et al*
- **Advertising**
 - Assisted Living Title Protection – Minn. Stat. § 144G.01-.02
 - Attorney General responsibility related to Prevention of Consumer Fraud – Minn. Stat. § 8.31
 - Consumer Fraud Act (Senior Citizens & Disabled Persons) – Minn. Stat. § 325F.71
 - Disclosure of Special Care Status for Memory Care – Minn. Stat. § 325F.72
 - False Statement in Advertisement – Minn. Stat. § 325F.67
- **Housing**
 - Landlord Tenant Law – Minn. Stat. § 504B
 - Building and Fire Codes(See *i.e.* Construction Codes and Licensing - Minn. Stat. § 326B)
 - Common Interest Community and Cooperative Laws – Minn. Stat. § 515B
- **Payment**
 - Medical Assistance for Needy Persons – Minn. Stat. § 256B

Figure 2 - MAIN CATEGORIES OF REGULATION – Federal and State



MAIN CATEGORIES OF HOUSING AND CARE OPTIONS

- ***Nursing Home***
 - High Level of Care
 - Low to Medium Level of Resident Autonomy
 - Full supportive and nursing services for non-acute patients
- ***Residential Facilities***
 - Low to High Level of Care
 - Medium to High Level of Resident Autonomy
 - Supportive and/or health-related services are provided in a residential setting generally accommodating 4-20 people, not in a larger apartment-style facility nor the senior's own home
 - Licensure varies widely as to the services offered from "Class A" (high to low care) to "adult foster care" (high to medium care)
 - May or may not be registered as "Housing with Services" facility, depending on type of facility or services offered
 - May or may not be considered "Assisted Living" facilities, depending on if the requirements of § 144G are met
 - Examples: Adult Foster Care; Supervised Living Facility; Memory Care
- ***Housing with Services Establishments***
 - Low to Medium Level of Care (unless increased services brought in by resident)
 - Medium to High Level of Senior Autonomy
 - Supportive and/or health-related services are provided in an apartment-style setting or a residential setting, not the senior's own home
 - Licensure varies widely as to the services offered from "Class F" (high to low care) to "adult foster care" (medium to high care)
 - May or may not be considered "Assisted Living" facilities, depending on if the requirements of § 144G are met
- ***Home Care***
 - Low to High Level of Care
 - Medium to High Level of Senior Autonomy
 - Supportive and/or health-related services brought into the senior's own home
 - Personal Care Provider Organizations (PCPO) or Agencies (PCA) may provide personal care attendants
- ***Adult Day Services***
 - High to Low Level of Care
 - Medium to High Level of Senior Autonomy
 - Coordinated social, health, and nutritional services offered at an off-site location for the day only, not in the senior's home, residential setting, or apartment-style setting
 - Licensure may be for "adult day services" at an off-site location or for "family adult day services" in the operator's own home

- **Independent Housing**
 - No to Low Level of Care (unless increased services brought in by resident)
 - High Level of Senior Autonomy
 - May be apartment-style or residential setting
 - Some meals may be provided if no individual kitchen
 - Some social services may be provided such as activities and transportation
 - Some facilities may offer very low level supportive and/or health-related services (i.e. medication reminder)
 - Other names:
 - “Board & Lodging” since management provides room & board only and generally does not arrange for supportive or health-related services for the residents. “Board & Lodge with Special Services” may provide minimum care such as assistance with medication.
 - “Active Living” to reference the type of resident for which the facility is designed, one that is generally autonomous enough to maintain an active lifestyle

- **FUTURE: Older Adults Community Consortiums**
 - Beginning July 1, 2009, the DHS, MDH and MN Dept of Housing Finance shall jointly implement a demonstration project for older adult services to shift care from nursing facilities to home-based alternatives as appropriate
 - The project is intended to:
 - Ensure consumer access to a continuum of older adult services
 - Create an adequate supply of affordable home-based alternatives
 - Establish performance targets for care throughout the continuum
 - Support the management of complex conditions through greater coordination

Figure 3 - MAIN CATEGORIES OF HOUSING & CARE OPTIONS

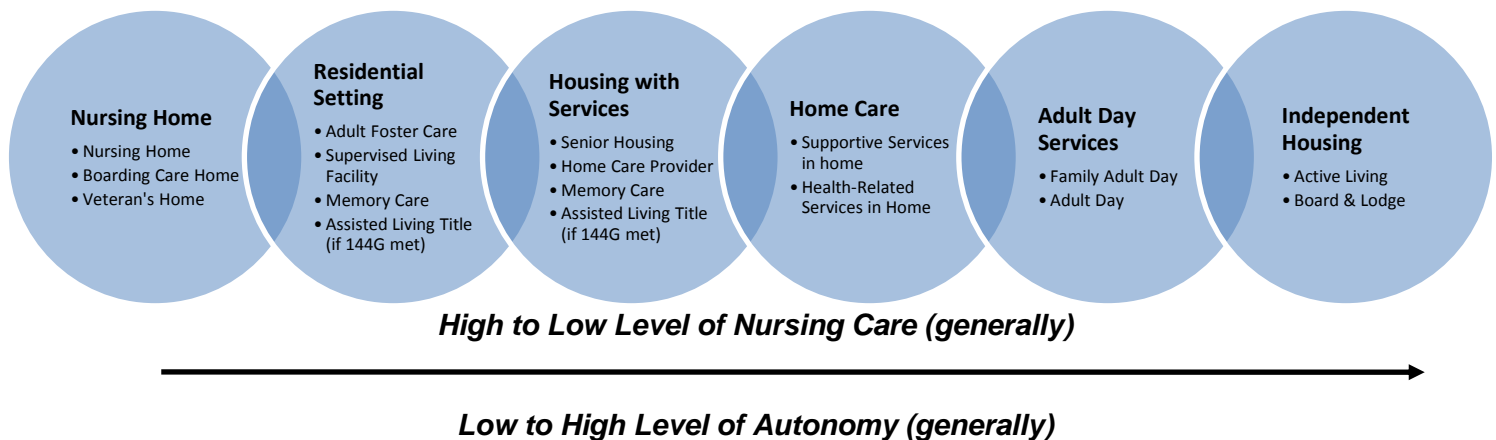


Table – Approximate Number of Licenses or Registrations - Statewide

	LICENSE	# OF LICENSES or REGISTRATIONS	TOTAL CAPACITY
MDH	Board & Lodge w/Special Srvc	147	
	Boarding Care Homes	33	1,810
	Class A	664	
	Class B	24	
	Class C	49	
	Class F	614	
	Home Management Regis	112	
	Hospice	67	
	Hospital	134	16,281
	Housing with Services Regis	1407	
	Medicare Mental Health Center	14	
	Medicare Out Patient Rehab	8	
	Medicare Portable X-ray	3	
	Medicare Rehab Agency	46	
	Medicare Rural Health Clinic	77	
	Nursing Home	385	33,618
	Outpatient Surgical Center	53	
	Supervised Living Facility	312	5,112
	Swing Bed (Hospital)	84	
DHS			
	Adult Day Care	127	3,933
	Adult Foster Care	4,701	16,419
	Family Adult Day Services	10	69
	<i>Supervised Living Facilities</i>		
	Chemical Dpndncy (R31)	308	3,075
	Detox Services (R32)	24	378
	Mental Illness (R36)	46	1,212
	Physical Handicaps (R80)	4	298
	Residential Services - ICF/MR	219	1,984

DHS Program counts are available at:

<http://www.dhs.state.mn.us/Licensing/ProgramLists/pdf/als.pdf>

MDH Directories are available at:

<http://www.health.state.mn.us/divs/fpc/directory/providerselect.cfm>

BOARD & LODGE LICENSE

In addition to the provider license or registration, most facilities must also secure a “Board and/or Lodging” license from the Environmental Health Section of the MDH in order to provide food and lodging. The following is a brief overview of Board and/or Lodging licensure. For more information, see Board and Lodging categories on page 83.

- Exemption - In general, all nursing homes, boarding care homes, and hospitals are exempt from the requirement of obtaining a board or lodging license. However, if the nursing home serves food to the public, it must obtain a board (food) license.
- Lodging – A facility must obtain a lodging license unless residents live in their own apartments within the facility. If the seniors live in their own apartments, a lodging license is generally not required. The question of whether a resident’s lodgings are considered an apartment is not easily answered, and interested persons should contact the Environmental Health Section of the MDH with questions.
- Board (Food) – A facility must obtain a “food” license if it serves food to the public. This includes all congregate-style dining and even nursing homes serving food to the public who may otherwise be exempt from needing a food license.
- Board and Lodge with Special Services – Minn. Stat. § 157.17. In addition to granting a Board and/or Lodge license, the Environmental Health Section of the MDH registers facilities offering “Special Services.” A minimum requirement to offer special services is providing transportation, but special services may also include medication reminders or taking vital signs.
- Enforcement Authority – The Environmental Health Section of the MDH may issue administrative penalty orders, such as fines and cease and desist orders, through the Health Enforcement Consolidation Act of 1993 (Minn. Stat. §§ 144.989-.993). The Environmental Health Section delegates board and lodge administration to some counties or municipalities, known as “delegated agencies,” which may use various and similar enforcement systems.
- Board & Lodge is Not Regulated as a Long Term Care Facility - Facilities licensed as Board and/or Lodge, with or without a special services registration, are not regulated as either Nursing Homes or Housing with Services Establishments. Therefore, they do not undergo periodic surveys nor are required to meet the same statutory requirements of care. See Minn. Stat. § 144D.01, Subd. 4(b)(3)) (excluding Board & Lodge facilities in the definition of a Housing with Services Establishment).

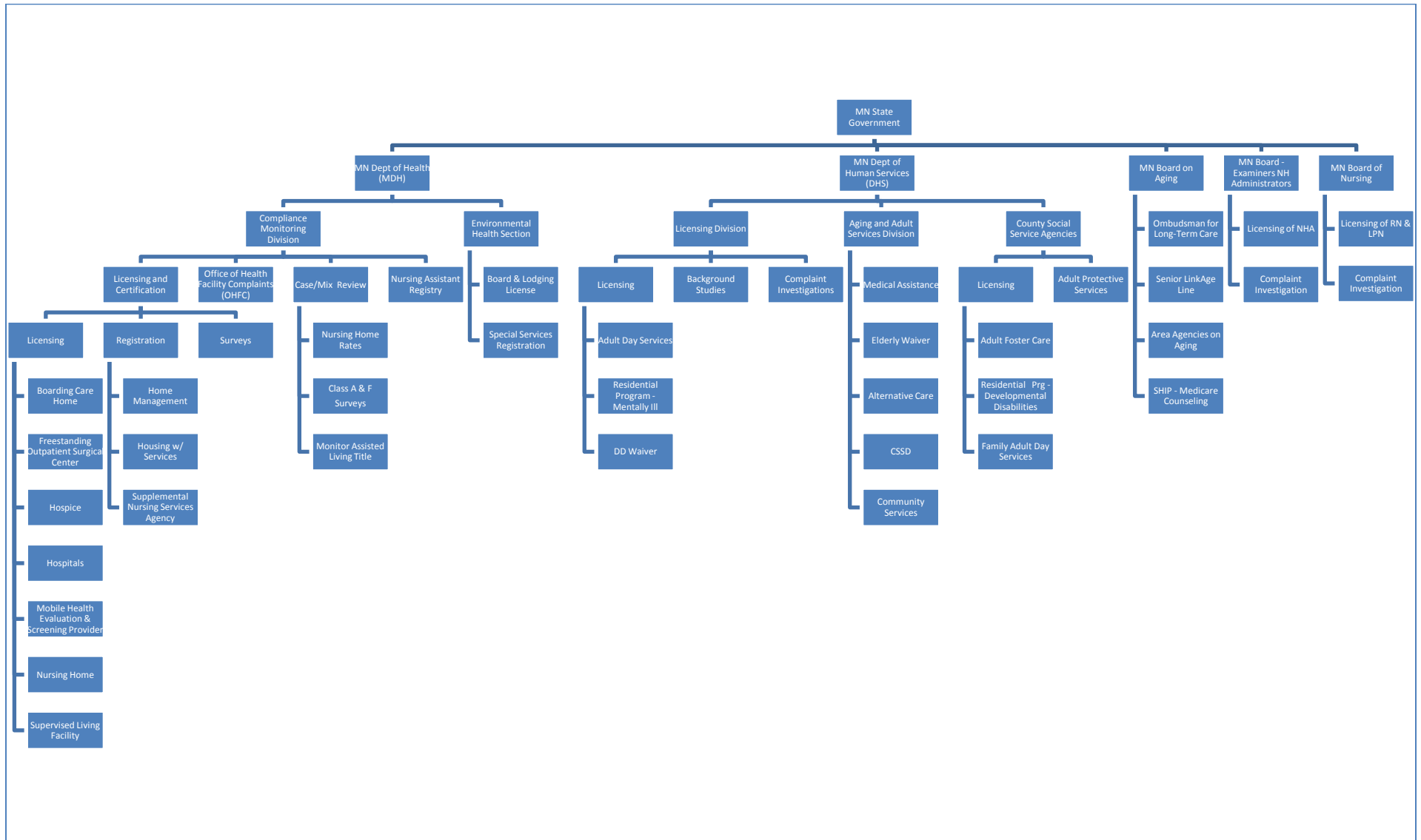
DUTIES OF MINNESOTA DEPARTMENTS & BOARDS

- **Minnesota Department of Health (MDH)**
 - Compliance & Monitoring Division
 - Licensing of hospitals, nursing homes, boarding care homes, supervised living facilities, Class A, B, C, and F providers, assisted living title protection, and home health agencies
 - Registration of Housing with Services and Home Management
 - Surveys of Nursing Homes as well as Class A and Class F entities
 - Investigation of Complaints of MDH licensed entities
 - Environmental Health Section
 - Licensing of facilities to provide food (board) and lodging
 - Register board and lodge facility for special services
- **Minnesota Department of Human Services (DHS)**
 - Licensing Division
 - Complaint investigations of DHS licensed facilities
 - Background studies on employees
 - Direct licensure of Adult Day Services and Residential Programs for the Mentally Ill
 - Grant of authority to counties to license Adult Foster Care, Residential Programs for the Developmentally Disabled, and Family Adult Day Care
 - Aging and Adult Services Division
 - Main focus – payor issues related to quality assurance
 - Payment Options
 - Medical Assistance
 - Elderly Waiver (EW)
 - Community Service/Community Services Development (CSSD)
 - Alternative Care (AC)
 - Community Services
 - Grant of authority to counties for Adult Protective Services
- **Minnesota Department of Veterans Affairs (DVA)**
 - General
 - Oversee 5 Veterans Homes which provide long term care for veterans
 - Operate Homes at the state level with some funding ties to the federal Department of Veterans Affairs
 - Overlap with other state agencies
 - MN Board on Aging – 1 state Ombudsman dedicated to the Minneapolis Veteran's Home
 - MDH – Licensure and compliance monitoring
 - DHS – Background studies for employees
- **Minnesota Board on Aging**
 - General
 - Authority from Older American's Act

- Under the Minnesota Department of Administration, with Administrative Oversight by the Minnesota Department of Human Services
 - 25 member Board
- Ombudsman
 - Independent authority by law
 - Not a regulatory agency (no sanctions or deficiencies)
- Resources
 - Senior Linkage Line
 - Areas Agencies on Aging
 - “SHIP” – State Health Insurance Program (providing Medicare Counseling)
 - Transitional Consultation for elders considering assisted living
 - Medicare Fraud
 - Provide data on all facilities (i.e. search by agency, service or site)
- **Minnesota Board of Examiners of Nursing Home Administrators (BENHA)**
 - Regulate licensing for nursing home administrators
 - Provide resources
 - Investigate complaints of nursing home administrators
- **Minnesota Board of Nursing (BON)**
 - Regulate licensing for Registered Nurses (R.N.) and Licensed Professional Nurse (L.P.N.)
 - Provide ongoing training and resources
 - Investigate complaints of nurses

Elder Care Guide

Figure 4 - Main Functions of Minnesota Departments & Boards



PATIENTS BILL OF RIGHTS

- **Overview** – All residents of extended care facilities and those receiving services at home or in an apartment-style setting are afforded certain rights under the Minnesota law's described below. A main Health Care Bill of Rights applies to residents of all extended care facilities, such as nursing homes, board and lodging, supervised living, and rehabilitation programs. The Home Care Bill of Rights and Assisted Living Addendum apply to those specific service options. Any individual receiving services, or the individual's guardian, may assert their rights.
- **Health Care Bill of Rights** – Minn. Stat. § 144.651
 - **Scope** - Those living in extended care facilities have certain rights, which include, but are not limited to the right:
 - To be treated with courtesy and respect (Subd. 5)
 - To receive care that meets individual needs, limited by the availability of private or public funds to pay for the care (Subd. 6)
 - To receive information from the physician about diagnosis and treatment, in lay terms, according to the physician's duty to disclose (Subd. 9)
 - To participate in planning of the resident's health care (Subd. 10)
 - To make a prompt and reasonable response to questions and requests (Subd. 18)
 - To not be arbitrarily transferred or discharged (Subd. 29)
 - To have reasonable access to advocacy groups, including for the protection of rights (Subd. 30)
 - **Enforcement** - The resident or a guardian, on the resident's behalf, may seek enforcement of the rights through administrative agencies or the district court (Subd. 1).
- **Home Care Bill of Rights** – Minn. Stat. § 144A.44
 - **Scope** - Those receiving home care service from providers have various rights, including the right:
 - To receive competent care (Subds. 1(2) & (13));
 - To be told in advance about the services offered (Subd. 1(3));
 - To refuse treatment (Subd. 1(5));
 - To know charges for services (Subd. 1(8));
 - To review records (Subd. 1(12)); and
 - To assert the rights or have the rights asserted by a family member or guardian due to patient incapacity, without retaliation (Subd. 1(21)).
 - **Application** - Arguably, a person receiving home care services may also have rights under the Health Care Bill of Rights (Minn. Stat. 144.651) and/or the Assisted Living Addendum if they receive home care services in an extended care or Assisted Living facility.
 - **Enforcement** – The resident or a guardian, on the resident's behalf, may seek enforcement of the Home Care Rights through administrative agencies (Subd. 2).

- **Assisted Living Bill of Rights Addendum** – Minn. Stat. § 144A.441
 - **Scope** – In addition to the Home Care Bill of Rights, facilities using the title of Assisted Living as defined in Minn. Stat. § 144G, have the following rights regarding termination or change in services:
 - Rather than a right to *reasonable advance notice* of changes in services, including at least 10 days for termination of service, as with a home care provider under § 144A.44, Subd. 1(16), the facility must provide 30 days notice, unless:
 - The recipient of services creates an unsafe work environment for the caregiver
 - The recipient's condition significantly changes, resulting in needs that alter the service agreement and cannot be safely met
 - The provider has not received payment for services, in which case 10 days notice of termination shall be provided
 - **Enforcement** - The resident or a guardian, on the resident's behalf, may seek enforcement of the Home Care Rights and Assisted Living Addendum through administrative agencies (§ 144A.44, Subd. 2).
- **Hospice Bill of Rights** – Minn. Stat. § 144A.751
 - **Scope** – An individual receiving hospice services has certain rights, including but not limited to the right to:
 - Receive advanced information about rights while under hospice care prior to receiving hospice services (§ 144A.751, Subd. 1(1))
 - Receive care in accordance with a hospice plan and subject to acceptable hospice standards (§ 144A.751, Subd. 1(2))
 - Refuse treatment or services (§ 144A.751, Subd. 1(5))
 - Know in advance whether services will be covered by health insurance, Medicare, or other sources (§ 144A.751, Subd. 1(7))
 - Be served by persons trained and competent (§ 144A.751, Subd. 1(13))
 - Reasonable advanced notice of change in services (§ 144A.751, Subd. 1(17))
 - **Enforcement** – The resident or a guardian, on the resident's behalf, may seek enforcement of the Hospice Bill of Rights through administrative agencies (§ 144A.751, Subd. 2&3)
- **Veteran's Affairs Homes – Resident Rights & Responsibilities** – Minn. Stat. §§ 198 et al; Minn. R. 9050.1070
 - **Scope** – In addition to the rights listed under the Health Care Bill of Rights (Minn. Stat. § 144.651), Veteran's Home residents have specific rights under Minn. R. 9050.1070, such as the right:
 - To receive a Resident Handbook upon admission (Subp. 5)
 - To receive certain education as part of Resident or Family Councils (Subps. 6 & 7)
 - To have access to a telephone (Subp. 18) and laundry service (Subp. 23)
 - **Enforcement** – The resident or a guardian, on the resident's behalf, may seek enforcement through administrative agencies

HEALTH CARE STAFF

- **Categories of Staff**
 - *Geriatric Nurse Practitioner* – Providing similar services to a doctor who specializes in geriatric care
 - *Nurse*
 - Registered Nurse (“RN”)
 - Licensed Practical Nurse (“LPN”)
 - Found in Nursing Home; Boarding Care Home; Veterans Homes; Residential Homes; Housing with Services; Home Care; Board & Lodge with Special Services
 - *Nursing Assistant* (“NA/R” or “Certified Nursing Assistant”)
 - Nursing Assistant Registry – MDH keeps a roster of Nursing Assistants. Prior to hiring a nursing assistant, the facility must contact the Registry to verify that the person is active.
 - Found in Nursing Home; Certified Boarding Care Home; Veterans Home (Not Assisted Living or other Senior Housing)
 - *Personal Care Assistant* (“PCA”)
 - Approximately 30,000 in Minnesota
 - Employed by either
 - Personal Care Agency (PCAA) (individual receiving care or intermediary supervises employee); Minn. Stat. §§ 256B.0655, *et seq*; Minn. Stat. § 256B.0625, Subd. 19(a)
 - Personal Care Provider Organizations (PCPO) (provides employer oversight and training to PCAs); Minn. Stat. §§ 256B.0655, Subd. 1(g) & *et seq*; Minn. R. 9505.0335, Subp. 5 (eligibility information)
 - Medicare certified Home Health Agency (HHA) – organization providing skilled nursing according to a plan of care as required by federal and state regulations
 - Regulated by DHS
 - Found in Home Care settings
 - *Trained Medication Assistant* (“TMA”)
 - Staff administers medication
 - Found in Nursing home; Boarding Care Home; Veterans Home
 - *Home Health Aide*
 - Provide some personal care services
 - Found in Home Care settings
 - *Human Services Technicians*
 - Found in State run agencies
 - *Universal Worker*
 - Employee performs multiple tasks from care to activities coordination
 - Typically associated with a “social model” of care
 - *Health Support Specialist* – currently piloted in 5 facilities statewide
 - One year curriculum plus on the job training, including dementia training

- **Staff Training**
 - **RN** - 4 year college degree (B.S. Nursing) or 2 year college degree (Associate R.N.)
 - **LPN** – 9 month approved program (i.e. at a community college)
 - **NA/R**
 - Criteria for Working as a Nursing Assistant:
 - **Test** – A person who successfully completes minimum requirements of passing a written and skill test; or
 - **Training** - A person who is enrolled in an approved nursing assistant training course when hired and gets on the Registry within 4 months by completing the course and competency test; or
 - **Proof of Training** - A person who can prove completion of a nursing assistant training and competency evaluation program or competency evaluation program; or
 - **On Registry in Another State** – A person in good standing on the Nursing Assistant Registry in another state who has worked at least 8 hours as a NA in that state in the past 2 years.
 - Approved Curriculum for Certification –
 - According to federal regulations, a NA training program must consist of a minimum of 75 hours. Minnesota has 2 approved curriculums – through Minnesota State Colleges and Universities and the American Red Cross
 - Other entities, such as the facility themselves, may start training program using approved curriculum if certain conditions are met
 - Criteria for Staying on the Registry –
 - A person must work at least 8 hours every 2 years;
 - A person must not have a finding of maltreatment;
 - No inservice requirements are needed to stay on the Registry; however, under federal regulations, the facility must provide 12 hours of inservice per year.
 - Registry Number – the person's social security number is the Registry number
 - **PCA** –
 - Training or experience as required under Minn. R. 9505.0335, Subp. 1(C) & Subp. 3, including:
 - Nursing Assistant Training program (9505.0335, Subp. 3(A))
 - Homemaker Home Health aide preservice training using curriculum recommended by the MDH (9505.0335, Subp. 3(B))
 - Accredited educational program for RN or LPN (9505.0335, Subp. 3(C))
 - Training program providing skills to perform PCA services (i.e. bowel control; range of motion; respiratory assistance; dressing; assistance with food, etc.) (9505.0335, Subp. 3(D) & Subp. 8(A)-(N))
 - Determination by the Personal Care Provider that the PCA has training or experience to perform PCA tasks (9505.0335, Subp. 3(E) & Subp. 8(A)-(N))
 - **Home Health Aide**
 - Employee may receive certification upon completion of course work
 - **Health Support Specialist**
 - 1 year curriculum plus on the job training, including dementia education
 - **Specialty Training**
 - **Memory Care** - required for nursing staff at most facilities
 - **Parkinson's & Diabetes** – no specific training requirement, but the conditions are becoming much more common, so residents should inquire as to staff training

BACKGROUND STUDIES FOR STAFF

MAIN STATUTES - § 144.057, § 245C *et seq*

WHEN IS STUDY REQUIRED - A background study on a potential employee is required for:

- ***For Programs Licensed by MDH***
 - *All Employees* - All employees in nursing homes and boarding care homes, regardless of whether the employee is in direct contact with residents (§ 144.057, Subd. 1(3))
 - *Direct Contact* – A person who are in direct contact with residents (§ 144.057, Subd. 1(1))
 - Facilities included: Hospitals; Nursing Home; Boarding Care Home; Outpatient Surgical Centers; Home Care Agencies licensed under 144A; Board and Lodging with Special Services
 - “Direct contact” is defined as face to face contact with persons served by the provider (§ 245C.02, Subd. 11)
 - If the individual performing direct contact services in a Nursing Home; Home Care Agency licensed under 144A; or Boarding Care Home lives outside of Minnesota, a Background study must also be conducted in the state of residence (§ 144.057, Subd. 1(2))
 - *Supplemental Nursing Services* – A person who is employed by a Supplemental Nursing Services Agency (meaning an Agency that provides temporary employment in health care facilities for nurses, nursing assistants, nurse aides, and orderlies (§ 144A.70, Subd. 6) and performs services in a health care facility and controlling persons of the Agency (§ 144.057, Subd. 1(4)&(5))
- ***Programs Licensed by DHS***
 - *Owner* – The person or persons applying for a license (§ 245C.03, Subd. 1(1))
 - *Managerial Staff* – A “controlling individual” of the program (§ 245C.03, Subd. 1(7)), including owners and managerial officials (§ 245C.02, Subd. 5a))
 - *Direct Contact* - Employees who are in direct contact with residents (§ 245C.03, Subd. 1(3) – DHS)
 - “Direct contact” is defined as face to face contact with persons served by the provider (§ 245C.02, Subd. 11)
 - *Volunteers* - All volunteers in any DHS licensed facility who are in direct contact with residents (§ 245C.03, Subd. 1(4))
 - *Other Residents* – Persons age 13 or older living in the household where services are provided (§ 245C.03, Subd.1(2))
 - *Reasonable Cause* – Persons whom the Commissioner has reasonable cause to perform a criminal background check, such as a person who may have unsupervised access to vulnerable adults (§ 245C.03, Subd. 1(6)); a person age 10-12 living in the household where services are provided (§ 245C.03, Subd. 1(5))
- ***Unlicensed Personal Care Provider Organization or Personal Care Agency*** – License holders, managers, direct contact staff of PCPO and PCA Agencies must receive a criminal background study (§ 245C.03, Subd. 2)

WHO CONDUCTS STUDY - The background study is performed by DHS

- DHS must conduct Background Studies on behalf other agencies that require such studies (§ 144.057, Subd. 2; § 245C.03, Subd. 5)
- Counties may perform background checks on adult foster care and family adult day services

PROCESS - The background study is a two-step process:

- *Step One* – A BCA criminal background check is performed for crimes charged in Minnesota
 - If the potential employee lives in another state, a background check is done in the state of residence in addition to Minnesota
 - If the potential employee has a criminal history in Minnesota, a nationwide check may be performed through an FBI process
 - DHS has broad authority to conduct a study in another state if there is “reasonable cause”
- *Step Two* – The DHS checks for prior disqualification of a potential employee due to substantiated maltreatment

WHEN IS STUDY PERFORMED

- *Upon Initial Application* – License holders, managers, direct contact staff, and residents of a DHS program shall have a background study at least upon initial application for licensure (§ 245C.04, Subd. 1(a))
- *Prior to Employment* – DHS must complete a background study on all persons in direct contact with residents, whether an MDH or DHS sponsored program or a PCPO, prior to direct contact, unless under continuous supervision (§§ 245C.04, Subd. 1(f); Subd. 2; Subd. 3; 245C.13, Subd. 2(b)(3))
- *Recurring Studies* – Most employees are not “re-studied,” except the following:
 - Annual studies for employees of a Supplemental Nursing Services Agency in direct contact with residents (§ 245C.04, Subd. 4(b))
 - Studies upon reapplication of Adult Foster Care and Family Adult Day Services (§ 245C.04, Subd. 1(b))
- *Time to Complete Study* – DHS is required to submit study results within fifteen days (§ 245C.13, Subd. 1)

DISQUALIFICATION – Minn. Stat. § 245C.14 *et al*

- *From Direct Contact* – The following trigger disqualification from direct contact with residents:
 - Conviction of at least certain misdemeanors under § 245C.15 *et al* (§ 245C.14, Subd. 1(a)(1))
 - A preponderance of the evidence that the person has committed at least a misdemeanor under § 245C.15 *et al* (§ 245C.14, Subd. 1(a)(2))
 - An investigation resulting in an administrative determination of disqualification based on substantiated maltreatment or failure to report suspected maltreatment under the Vulnerable Adults Act, Minn. Stat. § 626.557 &.5572 (§ 245C.14, Subd. 1(a)(3))
- *From Direct Access* – A person is disqualified from direct access to residents without continuous supervision under the following circumstances:
 - Persons who do not provide direct care in nursing and boarding care homes and are disqualified based on a background study are denied from having access to residents, meaning no direct contact without supervision (§ 144.057, Subd. 1(3))

- Persons disqualified from direct contact are also disqualified from direct access (§ 245C.14, Subd. 2(a))
- *Reconsideration* - A person may ask for reconsideration of disqualification. The person may continue direct contact with residents during reconsideration of the disqualification (§ 245C.21, Subd. 2). The Commissioner of Health reviews disqualifications decisions of programs licensed by MDH and makes a final administrative decision (§ 144.057, Subd. 3)
- *Nursing Assistant Registry* –
 - If a Certified Nursing Assistant is disqualified due to substantiated maltreatment, then they are also flagged in the Nursing Assistant Registry (but not removed from the Registry)
 - An employer may check the Nursing Assistant Registry at the MDH for a preliminary check prior to a full background check

NOTIFICATION - DHS notifies the appropriate agency or employer within 3 working days of the results of the study, if the study was requested using an online system (§ 245C.17, Subd. 1(c)) and notifies the individual who is the subject of the study the results within 15 working days (§ 245C.17, Subd. 1(a))

COST OF STUDY -

- *Paid by License Fee* – MDH licensed programs fund the costs of study through licensing fees
- *Paid by DHS* – DHS licensed programs receive background studies at no charge, with the funding appropriated from DHS general fund rather than license fees
- *Paid by County* – Family Adult Day Services and most Adult foster Care Services studies are funded by counties
- *Paid by Employer* – Supplemental Nursing Services Agencies, PCPOs and other unlicensed home care agencies are charged \$20 fee per study

ADMISSION PROCESS

PRE-ADMISSION RIGHTS & REQUIREMENTS

- ***Nursing Homes & Boarding Care Homes*** – (Minn. Stat. § 144.6501). Prior to admissions, facilities must:
 - Make complete, unsigned copies of admission contracts available to potential applicants upon request (Subd. 3).
 - Make reasonable efforts to communicate the content of the admission contract (Subd. 4)
 - Disclose whether the facility participates in Medicare, medical assistance, or Veterans Administration programs, limitations on participation, and whether the facility is eligible to receive payment for the prospective resident (Subd. 5)
- ***Home Care*** - Seniors have the following rights under Minn. Stat. 144A.44 (Home Care Bill of Rights) prior to entering into agreements or during initial evaluations with home care service providers:
 - To receive written information about their rights, including recourse if rights are violated
 - To be told about the services that will be provided, who will furnish the care, the frequency of the proposed visits, and other choices that are available and their consequences, including refusal of services
 - To know any limits to the services available from a provider, and the provider's grounds for a termination of services
 - To know whether the services are covered by health insurance, medical assistance, or other health programs, the charges for services that will not be covered by Medicare, and the charges that the individual may have to pay
 - To know that there may be other services available in the community, including other home care services and providers, and to know where to go for information about these services

ADMISSION RIGHTS & REQUIREMENTS

- ***Extended Care Facilities*** – The following are rights afforded under the Health Care Bill of Rights (Minn. Stat. § 144.651) for residents entering an extended care facility, such as a nursing home, board and lodge, or supervised living facility:
 - To be told their legal rights for their protection during their stay at the facility in an accompanying written statement (Subd. 4)
 - To receive, upon written request, current facility policies, inspection findings of state and local health authorities, and further explanation of the written statement of rights (Subd. 4)
 - To be informed, prior to or at the time of admission, of services which are included in the facility's basic per diem or daily room rate and that other services are available at additional charges (Subd. 17)
 - To be assured of reasonable efforts by facilities to assist residents in obtaining information regarding whether the Medicare or medical assistance program will pay for services (Subd. 17)
 - ***Nursing Homes & Boarding Care Homes*** – Additional admission requirements exist, under Minn. Stat. § 144.6501, for nursing and board care homes when entering into admission agreements, including:
 - Prohibiting a waiver of facility liability (Subd. 2)

- Stating that the facility does not require, as a condition of admission, that the resident remain in private pay status for any period of time when medical assistance for the resident has been approved (Subd. 6)
 - Prohibiting a clause requiring resident consent to all treatment, rather consent must be only for routine nursing care or emergency care (Subd. 7)
- **Veteran's Homes** – Additional admission requirements apply to Veteran's Homes under Minn. R. 9050.1070, such as the right to receive a Resident's Handbook upon admission (Subp. 5) and the right to receive information about the complaint process (Subp. 9). In addition, the admissions agreement upon entering a Veteran's Administration Home, based on Minn. R. 9050.0040, Subp. 5, must:
 - Identify the service obligations of the facility as well as the responsibilities of the resident (Subps. 5A&B)
 - If applicable, detail the amount to be paid as maintenance charge by or on behalf of a resident toward the cost of care (Subp. 5C)
 - Be signed by the person responsible for paying any charges (Subp. 5)
- **Home Care** – The following are rights afforded under the Home Care Bill of Rights (Minn. Stat. § 144A.44) during the admissions process:
 - A provider may not require a person to waive rights afforded in the Home Care Bill of Rights (Minn. Stat. § 144A.44) as a condition for receiving services.
 - A copy of the Home Care Bill of Rights must be provided to the person at the time home care services are initiated.
 - A copy of the address and phone number of the Office of Health Facility Complaints and the Office of Ombudsman for Long-Term Care and a brief statement describing how to file a complaint with these offices.

SIGNOR ISSUES FOR NURSING HOME CONTRACTS

The nursing or boarding care home is to obtain the signature of “the person who is to be admitted to the facility [unless he or she is incompetent to sign] and the responsible party” (Minn. Stat. § 144.6501, Subd. 4).

- **Signor Definitions**
 - *Legal Representative* - An attorney-in-fact under a valid power of attorney executed by the prospective resident, or a conservator or guardian appointed for the prospective resident, or a representative payee appointed for the prospective resident, or other agent of limited powers (Subd. 1(c))
 - *Responsible Party* - A person who has access to the resident's income and assets and who agrees to apply the resident's income and assets to pay for the resident's care or who agrees to make and complete an application for medical assistance on behalf of the resident (Subd. 1(c))
 - *Health Care Agent* – A person who the resident has appointed as an agent regarding health care decisions, but generally not financial or contractual decisions
- **Liability for Payment of Health Care**
 - A person who desires to be responsible for the resident's care may contract with the nursing home to make payments (Subd. 4(d))

- The resident *and* the resident's financially responsible spouse are liable for health care payments (Subd. 4(d))
- Persons other than the resident and the resident's financially responsible spouse may not be required to assume financial responsibility, except to the extent of misapplication of funds by the responsible party (Subd. 4(d))

ARBITRATION AGREEMENTS

Pre-dispute, mandatory arbitration clauses in nursing home or service contracts generally ask both parties to agree to submit all disputes that may arise under the contract to arbitration rather than litigating the claims in court. The agreements are a significant waiver of a right to a jury trial.

While arbitration agreements are not per se invalid in nursing home admission agreements, significant case law exists in other jurisdictions to invalidate arbitration clauses and proposed Congressional legislation seeks to invalidate all such arbitration agreements (*The Nursing Home Arbitration Act*, S. 2838, 110th Cong. (2008)). For more information, see Suzanne M. Scheller, *Arbitrating Wrongful Death Claims for Nursing Home Patients: What is Wrong with This Picture and How to Make it "More" Right*, Penn St. L. Rev.. 527 (2008) (discussing case law regarding the validity of arbitration agreements and addressing the authority of the signatory of admission contracts).

TIP: The signor has the option to reject an arbitration provision.

Prospective residents and those signing admissions agreement should be aware of the implications of signing such an agreement and that they have the option to cross out, refuse to sign the arbitration clause, or otherwise indicate non-acceptance of the clause, even though they sign the remainder of the admission agreement.

RESIDENT ADVISORY AND FAMILY COUNCILS

- **Description**

Under Minnesota's Health Care Bill of Rights, residents of a provider facility or family members of residents may organize advisory or family councils with other residents and their family members to conduct council meetings. (Minn. Stat. § 144.651, Subd. 27). Members themselves determine most of the content of council meetings, including whether for meetings are for the purpose of education or addressing care concerns. Council members are encouraged to "make recommendations regarding facility policies" that comply with the law.

- **Which Providers Must Accommodate Councils**

All acute care and nonacute, extended care facilities, such as nursing homes, board and lodging facilities, and supervised living facilities, must allow residents and family members to form resident advisory and family councils. (Minn. Stat. § 144.651, Subds. 2 & 27). Extended care facilities are categorized as those providing care "because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age." (Minn. Stat. § 144.651, Subd. 2). The statutory language encompasses all extended care facilities and would arguably include housing with services establishments (such as assisted living facilities) and adult foster care settings.

Nursing homes and boarding care homes are required to establish Resident Advisory and Family Councils themselves, unless they can show that after the facilities promotional efforts, fewer than three individuals desired to form a council. (Minn. Stat. § 144A.10, Subd. 8b). If one or both councils cannot form due to lack of interest, documentation of the facility's efforts to establish the councils must be recorded annually. Violations of attempts to form councils may result in a provider fine.

- **Provider Responsibility**

The provider facility is required to: (1) provide assistance and space for council meetings; (2) designate a staff person at the facility to provide assistance to councils and respond to written requests resulting from council meetings; (3) encourage councils to make recommendations regarding facility policies. Minn. Stat. § 144.651, Subd. 27.

- **Required Information at Council Meetings**

By law, each Resident Advisory and Family Council must be educated and informed about the following items (Minn. Stat. § 144A.33, Subd. 1):

- Care in the nursing home or board and care home;
- Resident rights and responsibilities;
- Resident and family council organization and maintenance;
- Laws and rules that apply to homes and residents;
- Human relations; and
- Resident and family self-help methods to increase quality of care and quality of life in a nursing home or board and care home.

- **Funding & Oversight of Educational Content**

Nursing homes and boarding care homes are charged an additional \$5 per bed to fund development and education of Resident Advisory and Family Councils (Minn. Stat. § 144A.33, Subd. 3). The Minnesota Board on Aging oversees funds collected for councils, agencies that provide educational services to councils, and annual evaluations of program and funding sources for councils (Minn. Stat. § 144A.33, Subds. 2, 4 & 5). While nursing homes and boarding care homes have an increased license fee to cover costs associated with councils, all facilities are provided with educational services to councils through oversight of the Minnesota Board on Aging (see Minn. Stat. § 144A.33, Subd. 1, addressing regulations to all councils formed under the Health Care Bill of Rights, which includes all extended care facilities, not just nursing homes and boarding care homes).

TIP: Resident Advisory Councils and Family Councils. The councils are often underutilized, but can be powerful tools. Here are some things to keep in mind:

- Both councils are distinct, meaning a provider facility may have both a Resident Advisory Council as well as a Family Council.
- The councils can provide meaningful support and education for fellow residents and family members as well as offer an avenue to address care concerns and to recommend change, especially since the facility must respond to written requests from council meetings.
- Council meetings are private, unless council members invite staff or visitors to attend
- A nursing home's license fee includes amounts allocated to Resident Advisory and Family Councils, to ensure councils have sufficient resources
- Meetings are generally held at the facility and the facility must provide meeting space
- Arguably, council formation requirements under the Minnesota Health Care Bill of Rights (Minn. Stat. §§ 144.651, Subd. 27) and access to education resources under Minn. Stat. § 144A.33, Subd. 1, 2 & 5, apply to residents in non-nursing home settings, such as Housing with Services Establishments (including Assisted Living programs) or Adult Foster Care homes.

PAYMENT INFORMATION

Paying for housing or care options is among the most difficult areas in elder care to understand, particularly government payments such as Medicare and Medicaid. The information below is an overview of the different categories of payments and a brief description of each category. For more detailed information on Medicare and Medicaid payments, please visit www.cms.gov or www.medicare.gov. Other resources for summary information include: http://www.ag.state.mn.us/consumer/seniors/slr/SLR_3.asp, from the Minnesota Attorney General, and <http://www.medicare.gov/LongTermCare/Static/TypesOverview.asp>, from Medicare.

There are four basic ways to pay for housing and care options: (1) Private Pay; (2) Health and Long-Term Care Insurance; (3) Federal Programs, such as Medicare; and (4) State Programs, such as Medical Assistance (Medicaid). Additional federal and state programs offer payment for specific services and are listed below under “Federal” or “State” programs.

Figure 5 - Methods to Pay for Housing and Care Options

Private Pay	<ul style="list-style-type: none"> • Individual pays their own costs out of pocket • Method commonly used at initial stages of care
Health or Long-Term Care Insurance	<ul style="list-style-type: none"> • Individual purchases their own insurance policy • Some policies may fall short of the costs of extended care
Medicare	<ul style="list-style-type: none"> • Federal program for those 65 years or older or disabled • Funds available for a maximum of 100 days in a skilled nursing facility (nursing home), if qualifying event
Medical Assistance	<ul style="list-style-type: none"> • Federal & state funded program with state administration • Individual must meet certain asset and income tests

PRIVATE PAY

- Direct payment (most common type of payment)

INSURANCE (also considered “private pay”)

- Health Care Insurance
- Long Term Care Insurance
 - Services generally covered – Nursing Home, Home Care, Respite Care, Hospice, Assisted Living, Adult Day

FEDERAL PROGRAMS

MEDICARE

- **Eligibility**
 - Age 65 of over or disabled
 - Only certain services covered
- **Part A** – Payment for services in hospitals and nursing homes (skilled nursing facilities)
 - Hospital
 - Days 1-60 copay - \$0
 - Days 61-90 copay - \$256/day
 - Days 91-150 copay - \$512/day
 - Nursing Home (Skilled Nursing Facility) (with qualifying event)
 - Days 1-20 coinsurance - \$0
 - Days 21-100 coinsurance - \$128/day
- **Part B** – Payment for services in clinics
 - Annual deductible - \$135
 - Monthly premium – \$96.40
 - 80/20% for all Part B
 - All outpatient prescription costs (Part D)
 - All emergency foreign travel costs
 - All at-home recovery costs (OOP)

TIP: You may be able to have your monthly premium waived for Medicare Parts A or B through Minnesota's Qualified Medicare Beneficiaries (QMB) or Service Limited Medicare Beneficiaries (SLMB). To be eligible, your monthly income and assets must be under a certain amount. For further information, contact Senior LinkAge Line at 1800-333-2433 or see <http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-2087E-ENG> (QMB) and <http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-2087G-ENG>. (SLMB)

- **Part C** – Medicare Advantage (Umbrella plans for Parts A, B, D)
 - Annual deductible
 - 20% coinsurance
 - All outpatient prescription costs
 - All emergency foreign travel costs
 - All at-home recovery costs
 - Types of plans:
 - Health Maintenance Organizations (HMO); Preferred Provider Organizations (PPO); Private Fee-for-Service Plans; Medicare Special Needs Plans; Medicare Medical Savings Account Plans (MSA)
 - Persons with a Medicare Advantage Plan, should not need Gap coverage
- **Part D** – New Drug Plans
 - Annual deductible - \$275
 - 25% co-pay (up to initial coverage limit)
 - Individual must spend \$4,050/year before 95/5% coverage
 - Individual pays 100% for drugs not purchased in U.S. on a Medicare-approved plan
- **Supplements/Gap Coverage**
 - Medicare does not pay for all health costs, such as coinsurance, copayments, and deductibles. A Medigap Policy can be purchased to cover gaps in Medicare coverage

STATE PROGRAMS

MEDICAL ASSISTANCE

- *Description* – Minnesota’s Medicaid program administered by DHS and helps pay for medical care in long term care facilities for low-income families with children, seniors, and people with disabilities. MA is the largest government-funded health care program, spending 75% of its \$5.2 billion expenditures on the elderly or persons with a disability.
- *Eligibility*
 - No income limits (but the cost of medical care must be more than the senior’s income)
 - Asset limit of \$3,000 (a spouse living in the home can keep up to one half of all assets within limits). Exempt and unavailable assets do not count in the asset limit; however, unavailable assets often have a lien attached by the county. The following is a general description of the three types of assets:
 - Exempt Assets - Your home; 1 vehicle; Burial spaces and limited burial funds; small life insurance
 - Unavailable Assets – Often life estates, jointly owned property, or other assets that cannot be sold based on how they are owned
 - Available Assets – All other types of assets not considered exempt or unavailable, such as cash, trusts, stocks, IRS’s, and annuities
- *Services Covered* (partial list) – Hospital and nursing services at facilities and some home-based services, physician services, prescriptions, eye exams & eye glasses (with copay), dental care (with copay)
- *Cost to Senior* – All monthly income is paid to the nursing home, after certain deductions
- *Contact* – Contact the appropriate county human services agency to fill out a Minnesota Health Care Programs Application
- *Administration* – Administered by County Human Services Agencies

TIP: Common Mistakes in Medical Assistance Planning (submitted by Hannon T. Ford, The Ford Law Office, Windom, MN)

- Placing accounts in joint ownership with children, which may still be considered an available asset
- Dividing property into one spouse’s name or the other because the assets are still considered available to pay for either spouse
- Giving assets away to reach the \$3,000 limit, which may cause severe penalties if not done properly
- Using all funds in a savings to pay for nursing home care when not required to do so

OTHER STATE PROGRAMS

- **General Assistance Medical Care**
 - *Description* – health care coverage for low-income adults, ages 21-64, who have no dependent children and who do not qualify for Medical Assistance
 - *Eligibility*
 - Full Medical Benefits
 - Hospital only coverage
- **Home and Community Based Waiver Programs**
 - *Description* – programs that provide creative alternatives to placement in hospitals, nursing facilities, and supervised living facility by paying for home and community based services not normally available under Medical Assistance
 - *Types of Programs*
 - Alternative Care (AC)
 - Description – a program for people age 65 or older, with a need for nursing home placement and low income and assets
 - Covered Services (partial list): Adult day care; companion services; home health aides; personal care; respite care; skilled nursing; transportation
 - Statute: Minn. Stat. § 256B.0913
 - Community Alternative Care (CAC)
 - Description – a program for chronically ill and medically fragile who need hospital care and under the age of 65 at start of waiver
 - Covered Services (partial list) – Case management; extended home health aide services; extended supplies; family counseling; respite care
 - Community Alternatives for Disabled Individuals Waiver (CADI)
 - Description – a program for persons with disabilities that need nursing facility care and under age 65 at the start of the waiver
 - Covered Services (partial list) – Adult day care; assisted living; extended home health aide and nursing services; home-delivered meals; independent living skills; supported employment services
 - Developmental Disabilities (DD) Waiver
 - Description – a program for those with mental disability or a related condition who need care in a Intermediate Care Facility for Persons with Mental Retardation or Related Conditions (ICF/MR)
 - Covered Services (partial list) – Adult day care; case management; chore services; 24-hour emergency assistance; homemaker services; respite care; supported living services
 - Elderly Waiver
 - Description – a program for those age 65 or older who are eligible for medical Assistance and need care in a nursing home
 - Covered Services (partial list) – Adult day care; chore services; home health aides; homemaker services; personal care assistant; skilled nursing; transitional supports; transportation
 - Statute - Minn. Stat. § 256B.0915
 - Traumatic Brain Injury (TBI)

- Description – a program for persons with acquired or traumatic brain injuries who need care in a specialized nursing facility and are under age 65 at the start of the waiver
 - Covered Services (partial list) – Adult day care; assisted living; case management; extended personal care assistant services; night supervision; respite care; structured day program services
 - *Contact*: County Public Health or Social Services Agency
 - *Administration* – The DHS Disability Services Division (CAC, CADI, DD, and TBI) and the DHS Aging and Adult Services Division (AC, EW)
- **Group Residential Housing (GRH)**
 - *Description* - a state-funded income supplement program that pays for room-and-board costs for low-income adults in a licensed facility, such as adult foster care, housing with services, and board and lodging, with which a county human service agency has negotiated a monthly rate
 - *Statute*: Minn. Stat. §§ 256I.01-.08
- **MinnesotaCare**
 - *Description* – subsidized health insurance for people who do not have access to affordable health care coverage
 - *Eligibility* -
 - Adults without children
 - Children under age 21 and Pregnant Women
 - Relative caretakers of children under age 21, parents, legal guardians, and foster parents
- **Minnesota Savings Programs (MSP)**
 - *Eligibility*
 - Qualified Medicare Beneficiaries
 - Service Limited Medicare beneficiaries
 - Qualifying individuals
- **Minnesota Senior Health Options (MSHO)**
 - *Description* – a coordinated health care program that combines separate health programs into one package in which a care coordinator helps secure health care and support services
 - *Eligibility*
 - Age 65 or older
 - Eligible for Medical Assistance and enrolled in both Medicare Parts A and B or eligible for Medical Assistance only
 - Live in a county in which a health plan offers MSHO
 - Blue Plus, First Plan Blue, HealthPartners, Itasca Medical Care; Medica; Metropolitan Health Plan; PrimeWest Health System; South Country Health Alliance; and UCare Minnesota
 - *Services provided* – the same services as Medical Assistance and Medicare, plus a new federal prescription drug benefit for people eligible for both Medicare and Medicaid
 - *Contact* – contact one of the MSHO health plans
 - *Administration* – Administered by DHS and 9 health plans listed above

- **Minnesota Disability Health Options** (MnDHO)
 - *Description* – a program for people with physical disabilities who are eligible for Medical Assistance (MA) in which a health plan assigns a care coordinator to each disabled person to help secure health care and support services
 - *Eligibility*
 - Between age 18 and 65
 - Have a physical disability
 - Eligible for Medical Assistance or both Medical Assistance and Medicare
 - Live in Hennepin, Ramsey, Anoka, Dakota, Carver, Scott, or Washington Counties
 - People on Community Alternative Care or Elderly Waiver are not eligible
 - *Services Provided* – the same services as Medical Assistance and Medicare, in addition to services not normally covered by MA or Medicare including modifications to the home or vehicle, extended personal care attendant service, etc.
 - *Contact* – contact UCare Complete at (612)-676-3554
 - *Administration* – Administered by DHS, UCare Complete (health plan), and AXIS Healthcare (care management)

SETTING COSTS: RUGS AND CASEMIX

OVERVIEW

When a resident is admitted to a nursing home or boarding care home receiving Medicare or Medicaid reimbursement, the facility must set the daily rates of payment according to the level of health care required. Rates are determined after the health needs of the resident are assessed by completing a “Minimum Data Set” (MDS), which is the basis for the resident’s care plan. Once the daily payment rate is set, Medicare or Medicaid reimburses the provider at the daily rate. The average daily rate, effective October 1, 2008, is \$162.33/day.

SCOPE

All facilities that are considered skilled nursing facilities (Medicare certified) or nursing facilities (Medicaid certified) follow a payment setting system called “Resource Utilization Groups” or RUGS. In October 2002, Minnesota converted to RUGS-III as a system for setting payment rates. The facilities must charge the same for public pay and private pay residents, known as “equalization” rates. Once the level of care needs is set, the rate is periodically reviewed to determine if the resident’s category has changed. The RUGS system is primarily a means of setting the reimbursement amount, not of ensuring a certain level of care. Therefore, being placed in a particular RUGS category does not mean that the facility is required to devote a certain number of staff hours or equipment to care for the resident.

RUGS

Medicare - RUGS-III 53 is used by nursing homes and other facilities accepting a Medicare source of payment. There are 53 categories of need, and daily rates are set after the resident’s initial assessment. RUGS categories are reassessed at certain days after admissions – days 5, 14, 30, 60, 90. Since Medicare only pays for the first 100 days at a nursing home, assuming other qualifications are met, the RUGS-III 53 categories are only in effect for a maximum of 100 days.

Medicaid – RUGS-III 34 is used by Medicaid certified nursing homes and boarding care homes due to their acceptance of Medicaid (otherwise known as Medical Assistance from the state of Minnesota) as a source of payment. Minnesota uses a “Case Mix Classification System” to determine rates for Medicaid facilities. Case Mix classifications are set after considering, among other things, an “Assistance with Activities of Daily Living Activities” (ADL) score that ranks the resident’s ability to transfer, toilet, eat, etc.; treatment that involves intravenous (IV) drugs or other intensive monitoring; diagnosis; depression; and therapies. There are 36 different classifications of care needs. The Case Mix Classifications are reassessed quarterly to determine if the resident’s daily rate has changed due to a change in necessary level of care.

Medicaid funds can be used to pay for the resident’s entire stay (unlike Medicare which reimburses for the first 100 days only), if the person continues to qualify for Medical Assistance. Further information on the classifications is available in a brochure produced by the DHS at: <http://www.health.state.mn.us/divs/fpc/profinfo/cms/cmconsumered.pdf>

CASEMIX FOR WAIVERS

For individuals receiving services under some type of government waiver or community-based service program, such as Elderly Waiver, a “Case Mix” system is used to set the individual’s daily rate. The individual receiving the waiver may be in an Adult Foster Care setting, Housing with Services establishment, or at home receiving care from someone with a Class A home care license. The daily rate is set by individual care needs and services and not by building or facility.

GRANTING DECISION MAKING POWER TO ANOTHER

HEALTH CARE DIRECTIVE (Minn. Stat. § 145C.01, *et. seq.*)

- Legal Requirements (Minn. Stat. § 145C.03, Subd. 1)
 - Written; Dated; State principal's name; Executed by principal with capacity; Signed by principal or signed by person authorized by principal to sign on behalf of principal; Verification of signature by notary or witness; and state health care instructions, appoint health care agent, or both.
- Validity of execution in another state (Minn. Stat. § 145C.04)
 - Legally valid in current state if health care directive either:
 - Complies with law of state of execution; or
 - Meets legal requirements for current state
- Revocation of Health Care Directive or appointment of health care agent occurs by (Minn. Stat. § 145C.09, Subd. 1):
 - Destruction of Health Care Directive with intent of principal to revoke;
 - Written and dated document expressing intent to revoke;
 - Verbal expression by principal of intent to revoke to 2 witnesses;
 - Execution of new health directive;
 - Termination of marriage or domestic partnership where spouse or domestic partner was appointed as health care agent, unless otherwise specified; or
 - Revocation by guardian appointed to act on behalf of principal (as to agent only not health care directive).(Minn. Stat. § 524.5-310)
- Health Care Provider issues
 - Provider may not condition admissions on the execution of a health care directive (Minn. Stat. § 145C.12, Subd. 1)
 - Criminal penalties for concealing, defacing, cancelling, coercing, falsifying, or requiring execution of health care directive to receive health care services (Minn. Stat. § 145C.13, Subd. 1 & 2)
- For further information, consult
http://www.ag.state.mn.us/Consumer/Seniors/Probate/Probate_3.asp#Health%20Care%20Directive (prepared by the Minnesota Attorney General's Office)

POWER OF ATTORNEY (Minn. Stat. §§ 523.23 & .24)

- Description – A power of attorney means appointing an agent to act on behalf of the principal in matters proscribed by the principal. The agent is often called an “attorney-in-fact,” which does not mean that the person becomes an attorney, but rather signifies acting on behalf of another
- Often a Statutory Short Form Power of Attorney form, as described in Minn. Stat. § 523.23, is completed in order to allow another family member to sign financial documents and records on behalf of the senior. Powers the senior may decide to grant to the agent in this Power of Attorney include the power to make transactions involving real property, banking, beneficiaries, fiduciaries, family maintenance, and records.
- Other appointments – appointing a power of attorney through completion of a Statutory Short Form Power of Attorney or similar document is separate from appointing a Health Care Agent under a Health Care Directive. Generally speaking, a power of attorney, as commonly defined, grants power over financial matters, and a Health Care Directive grants power over medical matters.
- Powers of attorney terminate in various ways, including upon death of the principal, upon incompetency of the principal (if specified in the appointment), upon divorce; or upon revocation of the power of attorney (effective once the attorney-in-fact receives notice).
- Further information and forms, consult the following resources:
 - <http://www.lawhelp.org/documents/119941S-8%20Powers%20of%20Attorney.pdf?stateabbrev=MN/> (prepared by Minnesota Legal Services Coalition)
 - http://www.ag.state.mn.us/Consumer/Seniors/Probate/Probate_2.asp#Power%20of%20Attorney (prepared by the MN Attorney General's Office)

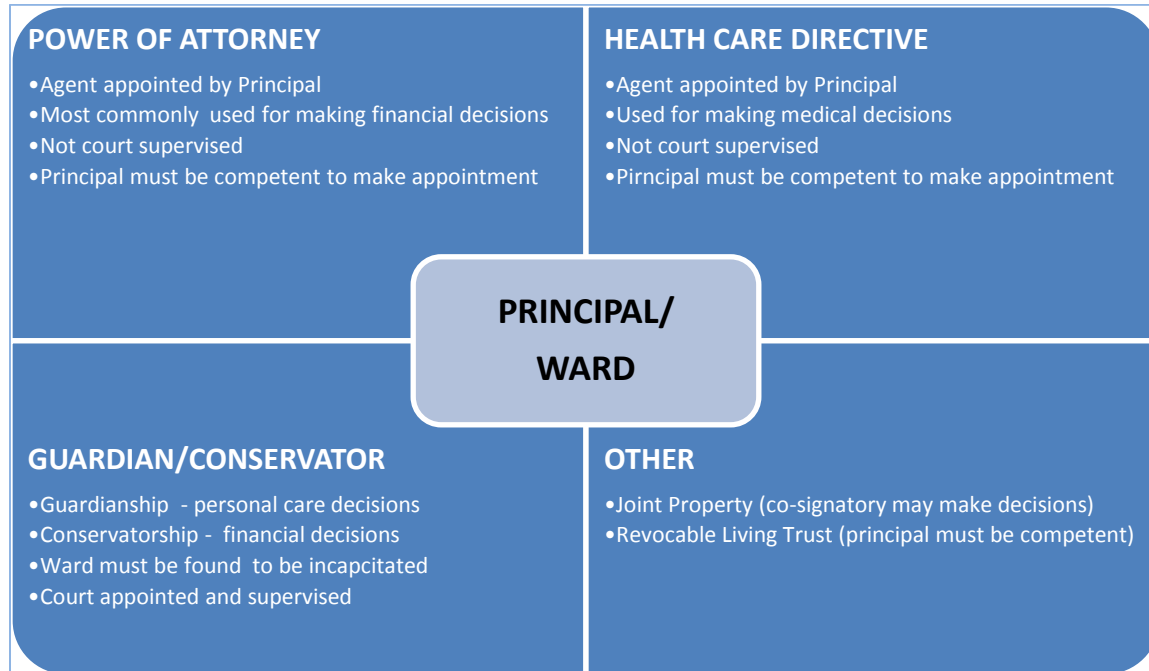
TIP: Considerations for the Principal when Creating a Power of Attorney

- Choose an agent carefully since the person gains significant authority over your finances and personal affairs
- You can choose which types of transactions to grant authority over and do not need to grant authority to make gifts, since the grant includes the power of the attorney-in-fact to gift to himself or herself
- Financial exploitation has become one of the leading types of vulnerable adult maltreatment, often at the hands of an attorney-in-fact, so consider asking for an accounting of your finances from the attorney-in-fact to allow all involved to keep track of financial matters
- You must be mentally competent (“of sound mind”) to create a valid power of attorney. If you become mentally incompetent, it is too late to appoint a power of attorney and a court-appointed guardianship or conservatorship is likely necessary.

GUARDIANSHIPS AND CONSERVATORSHIPS (Minn. Stat. §§ 524.5-101 – 524.5-502)

- Description - Guardianships and Conservatorships are generally court-ordered appointments of someone to make personal and/or financial decisions for a person who is considered “incapacitated” (unable to manage their own affairs). The incapacitated person is called a “protected ward.”
- Once a guardian or conservator is appointed, the protected ward has limited rights and is considered no longer able to manage his or her own affairs.
- A guardian is generally responsible for personal care decisions and a conservator for financial decisions.
- Guardians and conservators are under the supervision of the court, which can provide accountability but can also be time-consuming and expensive.
- For more information is available at:
http://www.ag.state.mn.us/Consumer/Seniors/Probate/Probate_2.asp#Power%20of%20Attorney (prepared by the MN Attorney General’s Office)

Figure 6 - Overview of Options for Granting Decision-Making Powers



MALTREATMENT REPORTS AND COMPLAINTS

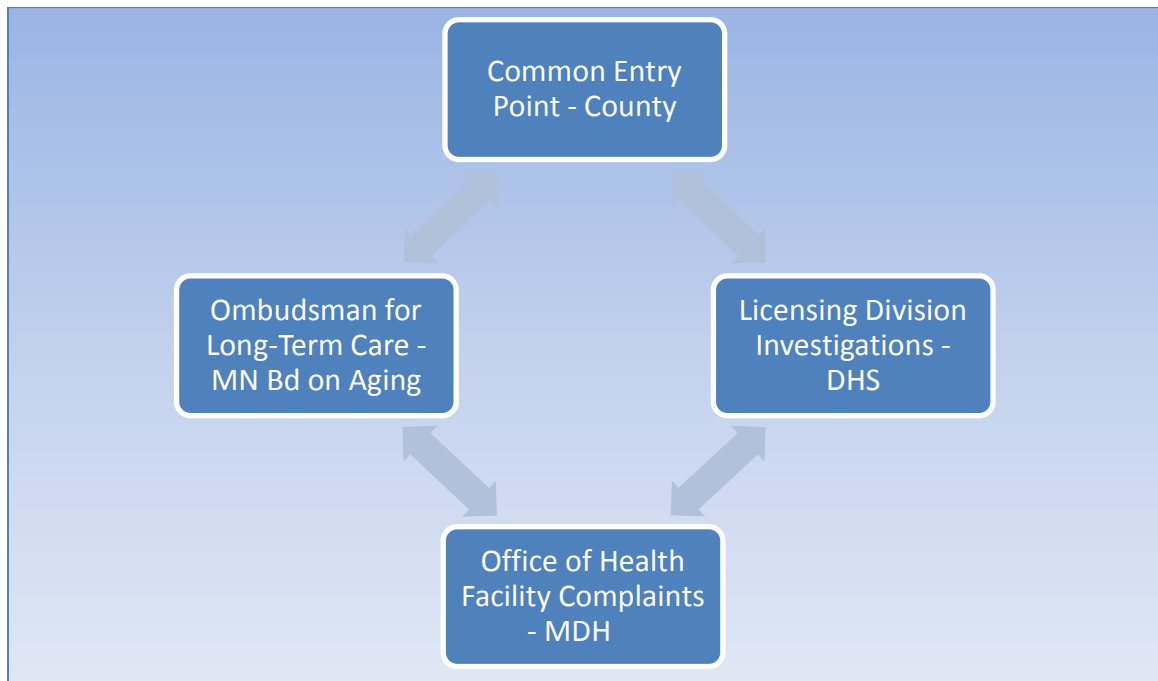
- ***Requirements for Reporting Complaint against Medical Assistance Facilities***
 - States receiving medical assistance payments must have a complaint review procedure - 42 U.S.C. § 1396a (State Plans for Medical Assistance); 42 C.F.R. §§ 456.600 - 456.614; Minn. Stat. § 144.072; Minn. R. 4656.0010-0090.
- ***Requirements of Reporting Maltreatment under the Vulnerable Adults Act***
 - A mandated reporter suspecting maltreatment in a housing or care setting must report the suspected maltreatment.
 - “Mandated Reporter” is defined as a professional engaged in social services, law enforcement, education, or care; a facility employee; an employee or person providing services in a facilities; or a medical examiner (Minn. Stat. §626.5572, Subd. 16).
 - “Facility” includes hospital, nursing home, adult residential facility, adult nonresidential facility, home care providers, hospice providers, or person or organization providing personal care assistance under the medical assistance program (Minn. Stat. 626.5572, Subd. 6).
 - “Vulnerable Adult” means a person 18 years of age or older who is a resident of a facility; receives services from a facility licensed to serve adults such as residential foster care homes and nonresidential day care facilities; receives services from a home care provider; possesses a physical or mental infirmity (Minn. Stat. § 626.5572, Subd. 21).
- ***Process when Reporting Suspected Maltreatment***
 - 3 Main areas of Reporting:
 - Abuse
 - Neglect (both caregiver neglect and self-neglect, which is most common)
 - Financial Exploitation (second most common area of concern)
 - Process:
 - Mandated Reporter:
 - MUST file an immediate oral report with the Common Entry Point with sufficient content to identify issues and persons (see Common Entry point contacts below)
 - MAY make an internal report to a facility (facility then becomes responsible for immediate reporting requirement)
 - Immunity for good faith reports (Unless employed by a different employer than the one against whom the complaint is lodged)
 - Common Entry Point:
 - Performs immediate assessment of danger to determine whether to refer to appropriate county’s protective service agency
 - If no immediate danger, refer to lead agency for investigation
 - Report to county in which the abuse occurred
 - Lead Agency: (i.e. MDH – Office of Health Facility Complaints)
 - Conduct an investigation and complete a final disposition within 60 days
 - Consider exceptions and mitigating factors in the investigation

- Each lead agency authorized to assess immediate risk factors and make determination
 - Investigation
 - Preponderance of the evidence standard
 - Three outcomes – (1) Inconclusive; (2) Unsubstantiated; (3) Substantiated (Minn. Stat. § 626.5772, Subd. 11, 7, 19).
 - Results of Violations
 - Sanctions for individual (i.e. employment restriction, termination, license suspension, civil damages, criminal charges, etc.)
 - Sanctions for facility (i.e. order to correct fines, license suspension, civil damages, criminal charges, etc.)
 - Facility Abuse Prevention Plan
 - Findings of violations are admissible as evidence of neglect (Minn. Stat. § 626.5573)
 - Disqualification of staff person involved if maltreatment is substantiated
 - Disqualification is placed on DHS data and appears when conducting future background checks
 - If disqualified, staff person has right to appeal in both MDH and DHS
 - Facility may be required to develop a plan of correction to prevent maltreatment in the future
 - Criminal Penalties - In addition to civil penalties, a person or persons may also be subject to criminal penalty, including being found guilty of:
 - Criminal Neglect of a Vulnerable Adult – Minn. Stat. § 609.233
 - Criminal Abuse of a Vulnerable Adult – Minn. Stat. 609.2325
 - Financial Exploitation of a Vulnerable Adult – Minn. Stat. § 609.2335
 - Medical Assistance Fraud – Minn. Stat. § 8.31, Subd. 1 (Attorney General)
 - Sexual Assault – Minn. Stat. §§ 609.342 - 609.3451; 609.3453
 - Assault – Minn. Stat. §§ 609.221-609.224
 - Theft – Minn. Stat. § 609.52
 - Reconsideration (Appeals)
 - Interested parties may request reconsideration within 15 days of a final disposition, by written request (either person maltreated or person found to have maltreated)
 - License holder has the right to a contested case hearing if disposition results in a denial of license or sanction (Minn. R. 1400.8505-8612)
- ***Distinctions in Reporting Departments***
 - Adult Protective Services/Common Entry Point (County offices)
 - Main function: Protect the vulnerable adult as a reporting and investigatory agency. First point of contact for all mandated reporters
 - All suspected maltreatment reports are logged through Adult Protection Services (even if not called in by a mandated reporter). Once a report is referred to a state agency, report records are kept in the respective state office

- Receives calls regarding all types of housing and care situations (i.e. facilities, home care, other issues of abuse, neglect, or financial exploitation)
 - Authority:
 - Authority is determined by whether a person allegedly being maltreated fits within the definition of “vulnerable adult”
 - Right to enter facility or home and get records
 - Not a regulatory agency (cannot use sanctions or fines)
 - Can involve police and county attorney’s office to resolve issues
 - Hours of operation: 24 hours a day/7 days per week
- Minnesota Department of Health (Office of Health Facility Complaints)
 - Main function: Regulatory agency
 - May receive report of maltreatment directly
 - Copies Adult Protective Services at the county level for the county to determine next steps (i.e. respond to any emergencies)
 - Investigates complaints regarding MDH licensed facilities or providers only (not DHS licensed programs or other non-MDH licensed instances of maltreatment)
 - Authority:
 - Regulatory agency (can assess fines and sanctions)
 - Hours of Operation: Weekday business hours
 - Minnesota Department of Human Services (State Office)
 - Main function: Regulatory agency
 - May receive report of maltreatment directly
 - Copies Adult Protective Services at the county level for the county to determine next steps (i.e. respond to any emergencies)
 - Investigates complaints regarding DHS licensed facilities or providers only (not MDH licensed programs or other non-DHS licensed instances of maltreatment)
 - Authority:
 - Regulatory Agency (can assess fines and sanctions)
 - Hours of Operation: Weekday business hours
 - Minnesota Ombudsman for Long-Term Care (Division of MN Board on Aging)
 - Main function: Independent consumer advocate
 - Communicates with MDH, DHS and County Adult Protective Services to resolve care concerns
 - Authority:
 - Not a regulatory agency (cannot use sanctions or fines)
 - May receive calls for an anonymous consultation without a reporting requirement
 - Hours of Operation: Weekday business hours
 - Minnesota Board of Examiners for Nursing Home Administrators
 - Main function: Regulatory agency that ensures nursing home administrators are qualified to perform their duties
 - Investigates allegations of professional misconduct by nursing home administrators
 - Authority:

- Regulatory agency that can suspend or revoke administrator license
- Minnesota Board of Nursing
 - Main function: Regulatory agency that reasonably ensures nurses are competent, ethical practitioners
 - Investigates allegations of professional misconduct by nurses
 - Authority:
 - Regulatory agency that can suspend or revoke nurse license
- Local Police Department
 - Lodge a criminal complaint of physical abuse, financial exploitation, or theft

Figure 7 - Complaint Process



TIP – Provide Sufficient Factual Information in the Complaint

Not all complaints are fully investigated, so draft the complaint as purposefully and professionally as possible. Type the complaint. Focus on the incidents of abuse or neglect and not the emotional responses of the parties involved. Attach photographs, medical records, death certificates or other documentation that substantiate the contents of the complaint.

- **Where to File a Complaint**

- Controlling Person or Employee at Facility to be given to facility's administrator (Minn. Stat. § 144A.13)
- Common Entry Point for "Mandated Reporters" to Report Maltreatment of Vulnerable Adults (Minn. Stat. § 626.557, Subd. 4); <http://www.mnaging.org/advisor/cepd.htm>
- Office of Health Facility Complaints (MDH) (Minn. Stat. § 144.651, Subd. 20); www.health.state.mn.us/divs/fpc/ohfcinfo/contohfc.htm; 1-800-369-7994 or (651) 201-4201
- Minnesota Department of Human Services Appeals Office (For appeals to state health plan coverage); http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_029049; (651) 431-3600 or 1-800-657-3510
- Office of Ombudsman for Long-Term Care (Minn. Stat. § 144.651, Subd. 20); http://www.dhs.state.mn.us/main/groups/aging/documents/pub/dhs_id_050165.pdf; 1-800-657-3591 or (651) 431-2555
- Office of Ombudsman for State Managed Health Care Programs (DHS programs - Minnesota Health Care Programs (MHCP), Medical Assistance, or Minnesota Care) http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_052228; (651) 431-2660 or (800) 657-3729
- Ombudsman for Mental Health and Developmental Disabilities; <http://www.ombudmhdd.state.mn.us/>; 651-757-1800 or 1-800-657-3506
- Executive Director of Board of Nursing Administrator (Minn. Stat. § 214.103, Subd. 2); <http://www.benha.state.mn.us/>; (651) 201-2730
- Minnesota Board of Nursing; <http://www.state.mn.us/portal/mn/jsp/home.do?agency=NursingBoard>; (612) 617-2270
- Minnesota Board of Medical Practice; <http://www.state.mn.us/portal/mn/jsp/home.do?agency=BMP>; (612) 617-2130
- Minnesota Attorney General; (651) 296-3353 or 1-800-657-3787
- Medicaid Fraud Unit Control of Minnesota; (651) 296-0320
- Minnesota Department of Human Rights, http://www.humanrights.state.mn.us/attorneys_howto.html, (651) 296-5663
- Department of Housing and Urban Development, <http://www.hud.gov/complaints/housediscrim.cfm>, 1 - 800 669-9777
- Local Police Department

FAIR HOUSING ACT

- Statute - 42 U.S.C. § 3604(f); 24 C.F.R. 100 (Discrimination in the Sale or Rental of Housing)
- Scope – The Fair Housing Act (FHA) can apply to all kinds of senior housing, including nursing homes, housing with services, assisted living, and independent living (42 U.S.C. § 3602 (b))
- Admissions - It is illegal to refuse to admit a renter or buyer to a dwelling merely on the basis of disability. This includes rejecting a senior applying to independent living or a nursing home even though they have disability-related needs. If the applicant is not asking the facility to provide services beyond those it normally provides, advertises, or is required by law to provide, it is unlawful for the facility to reject the applicant. (42 U.S.C. § 3604(f)(1))
- Evictions – It is illegal to evict a renter or buyer from a dwelling merely on the basis of disability, such as difficult behaviors or declining health. If the senior can keep up with the non-discriminatory terms of his or her lease and is not asking for services beyond what the facility would normally provide, it is unlawful for the facility to evict or discharge the resident. (42 U.S.C. § 3604(f)(2))
- Terms & Conditions – It is illegal to have different terms or conditions for rental property for individuals with disabilities. For example, the facility may not require a permit for the use of mobility devices or perform a background check only on a mentally ill applicant. (42 U.S.C. § 3604(f)(2))
- Reasonable Accommodation – It is illegal for a facility to refuse to provide requested reasonable accommodations or modifications for a tenant, resident, or applicant with a disability need. For example, requests for companion animals, minor adjustments in health care services, and resident installation of shower grab bars are in general reasonable accommodations or modifications that the facility must grant. (42 U.S.C. § 3604(f)(3))

TIP: If an applicant/resident needs services in addition to ones provided by the facility, the resident should consider asking for a reasonable accommodation stating that the resident may bring in those services from another provider.

- Remedies – A disabled person seeking redress for violations of the Fair Housing Laws may be awarded compensatory damages, punitive damages, civil penalties for each violation, injunctive relief, declaratory relief, and attorney's fees.

Thanks to Aisha Bierma, Esq., of the Legal Aid Society of Minneapolis, for providing materials on the Fair Housing Act



SECTION 2:

SPECIFIC INFORMATION BY LICENSE OR REGISTRATION

NURSING HOME

DESCRIPTION

"Nursing home" means a facility or that part of a facility which provides nursing care to five or more persons. "Nursing home" does not include a facility or that part of a facility which is a hospital, a hospital with approved swing beds as defined in section 144.562, a clinic, doctor's office, diagnostic or treatment center, or a residential program licensed pursuant to sections 245A.01 to 245A.16 or 252.28 (Minn. Stat § 144A.01, Subd. 5).

OTHER NAMES

Skilled Nursing Facility
Dual Medicare/Medicaid Skilled Nursing and Nursing Facility
Medicaid Nursing Facility

DEPARTMENT OVERSIGHT

<i>Compliance with Federal Regulations</i>	Centers for Medicare and Medicaid Services (CMS)
<i>License</i>	Minnesota Department of Health (MDH)
<i>Survey Inspections</i>	Minnesota Department of Health (MDH)
<i>Administrator License</i>	Minnesota Board of Examiners of Nursing Home Administrators
<i>Background Study of Employees</i>	Minnesota Department of Human Services (DHS)

BOARD OVERSIGHT

Board of Examiners of Nursing Home Administrators	
Creation/Organization	§§ 144A.19 & 214.01
Duties	§ 144A.24

RESIDENT ADVISORY AND FAMILY COUNCIL

Residents of a Nursing Home shall have the right to establish a Resident Advisory and Family Council for the purpose of providing residents and their families with educational and informational services (Minn. Stat. §§ 144A.10; 144A.33; 144.651, Subd. 27).

MAIN GOVERNING LAW

Federal

42 USC § 1395i-3 - Social Security Act, § 1819 (Medicare - Skilled Nursing Facility)
42 USC § 1396r - Social Security Act, § 1919 (Medicaid - Nursing Facility)
42 CFR, Part 483, Subpart B (OBRA Regulations)
42 U.S.C. § 3604(f); 24 C.F.R. 100 (Fair Housing Act)

State

Minnesota Statutes §§ 144A.01-144A.37 (Nursing Home Main Law)
Minnesota Statute § 144.651 (Health Care Bill of Rights)
Minnesota Statute §§ 144A.10 & 144A.33 (Resident Advisory Council)
Minnesota Rules 4658.0010-4658.5590 (Resident Services)
Minnesota Statute § 504B (Landlord Tenant Law)

SERVICES PROVIDED

- 24 Hour Nursing Care



- Meals; Laundry; Housekeeping; Personal services
- Medicare Skilled Nursing Facility/Medicaid Nursing Facility Services

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES)

- No admittance for pregnant women; mentally disturbed; those with infectious disease; or children under the age of 16 (Minn. R. 4655.0400)
 - NOTE: This restriction on admittance may violate federal fair housing law. Also, OBRA requires nursing homes to offer many services, including some mental health services. (See *In the Matter of the Involuntary Discharge of Transfer of J.S. by Hall*, 512 N.W.2d 604 (Minn. App. 1994)).

SAMPLE OF REGULATIONS – Federal OBRA Regulations & State Statutes/ Regulations

To participate in the Medicare and Medicaid programs, nursing homes must be in compliance with the federal requirements for long term care facilities as prescribed in the U.S. Code of Federal Regulations (42 CFR Part 483), otherwise known as the OBRA regulations. The following are examples of federal regulations and corresponding state regulations:

- Resident Rights. 42 CFR § 483.10; Minn. Stat. § 144.651 (Health Care Bill of Rights)
 - Admission, transfer and discharge rights. 42 CFR § 483.12
 - Quality of life. 42 CFR § 483.15
- Sufficient nursing staff. 42 CFR § 483.30
- Conduct initially a comprehensive and accurate assessment of each resident's functional capacity in a Resident assessment. 42 CFR § 483.20
- Develop a comprehensive care plan for each resident. 42 CFR § 483.20 (k); Minn. R. 4658.0405, Subpart 1(k) (Comprehensive care plans)
- Ensure that residents do not develop pressure sores and, if a resident has pressure sores, provide the necessary treatment and services to promote healing, prevent infection, and prevent new sores from developing. 42 CFR §483.25(c)
- Provide appropriate treatment and services to incontinent residents to restore as much normal bladder functioning as possible. 42 CFR §483.25 (d)
- Ensure that the resident receives adequate supervision and assistive devices to prevent accidents. 42 CFR §483.25 (h)
- Maintain acceptable parameters of nutritional status. 42 CFR §483.25 (i)
- Provide each resident with sufficient fluid intake to maintain proper hydration and health. 42 CFR § 483.25 (j)
- Ensure that residents are free of any significant medication errors. 42 CFR §483.25 (m); Minn. R. 4658.1320.
- Assist residents in obtaining routine and 24-hour emergency dental care. 42 CFR § 483.55
- Infection control. 42 CFR § 483.65

LICENSE

Minnesota Nursing Home License: Applicable Statutes & Rules

Licensing Governing Law:

Application	§ 144A.03
Qualifications	§ 144A.04
Renewal	§ 144A.05
Fees	§ 144.122; R. 4658.0020, Subp. 2



Elder Care Guide

Period of Issuance	R. 4658.0020, Subp. 3
Procedures for Licensing	R. 4658.0025
Penalties for Licensing Violations	R. 4658.0045
Licensee Duties	R. 4658.0050 & R. 4655.1200
Quality Services	R. 4658.0140
Capacity	R. 4658.0030
Twenty four hour care	R. 4658.0510
Variance or Waiver from rules	R. 4655.1000
New Medicaid Certified Moratorium Exception	§ 144A.071; R. 4655.1070-4655.1098

Application for License:

Applications for License to operate a Nursing Home are available on the MN Dept. of Health (MDH) web site.

License Requirements:

- Provide nursing care to 5 or more persons (Minn. Stat. § 144A.01, Subd. 5; Minn. R. 4658.0020, Subp. 1);
- Operate & provide services in compliance with all applicable federal, state and local laws, regulations and codes (Minn. R. 4658.0015);
- Specify one or more controlling persons who are responsible for dealing with the MDH on all matters under sections Minn. Stat. §§ 144A.01-144A.15 (Minn. Stat. § 144A.03, Subd. 2);
- Meet minimum health, sanitation, safety and comfort standards prescribed by the MDH (Minn. Stat. § 144A.04, Subd. 3);
- Ensure that any “controlling person,” “administrator,” and “managerial employee” is without a certain number of uncorrected or repeated violations or convicted of a felony/gross misdemeanor relevant to nursing home operation and safety in the previous 2-years (Minn. Stat. § 144A.04, Subds. 4&6);
- Employ a Nursing Home Administrator that is licensed by the Board of Examiners for Nursing Home Administrators (Minn. Stat. § 144A.04, Subd. 5);
- Maintain a minimum number of nursing personnel hours at 2 hours per resident in a 24-hour period (Minn. Stat. § 144A.04, Subd. 7);
- Have at all times at least 1 staff member trained in single rescuer adult cardiopulmonary resuscitation in the previous 2 years (Minn. Stat. § 144A.04, Subd. 9);
- Determination by the MDH of compliance with Minnesota Rules parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4660.0090 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16 (Minn. R. 4658.0025, Subp. 1); and
- Meet a moratorium exception for initial licensure if a new nursing home (Minn. Stat. § 144A.071).

Renewal License Requirements:

- No approval for a nursing home bed in a resident room with more than 4 beds (Minn. Stat. § 144A.05)
- Receipt of the nursing home’s most recent balance sheet and most recent statement of revenues & expenses (Minn. Stat. § 144A.05)
- Continue to comply with Minnesota Rules parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4660.0090 to 4660.9940, and Minnesota Statutes, sections 144A.01 to [144A.16](#) (Minn. R. 4658.0025, Subp. 2)



Fee:

Base fee of \$183; plus \$91 per licensed bed; plus \$5 per licensed bed fee for nursing home resident advisory councils.

Period of Issuance:

One year from effective date; renewed on an annual basis.

Nursing Home Administrator License: Applicable Statutes & Rules

License Governing Law:

Qualifications	§ 144A.20
Licensure Requirements	R. 6400.5000-6400.6100
Delegation of Authority	R. 4658.0055
Course Requirements	R. 6400.6400-6400.6660
Responsibilities	R. 6400.6710
Continuing Education	R. 6400.6800
Discipline	R. 6400.6900
Fees	R. 6400.6970

License Requirements:

- Licensure by the Board of Examiners for Nursing Home Administrators (Minn. Stat. § 144A.18)
- Age 21 or older (Minn. Stat. § 144A.20, Subd. 1(a))
- Meet standards designed by the Board of Examiners for Nursing Home Administrators (Minn. Stat. § 144A.20, Subd. 1(b))
 - Specified coursework
 - Internship
 - Bachelor's degree
- Pass competency exam or otherwise be approved by the Board of Nursing Home Administrators (Minn. Stat. § 144A.20, Subd. 1(c))
 - National exam
 - State rules test

Application for License:

Application form is available on the BENHA web site

Fee:

Application fee - \$150
National exam fee - \$285
Rules exam fee - \$75
Initial license fee - \$200
Annual renewal fee - \$200

Period of Issuance:

Annual

Length of Determination Process:

Board meets 4 times a year; National exams by appointment; State exams every other month.

FACILITY REPORTING

An annual statistical report is required to be submitted by the nursing home online by December 31st of each year.

INSPECTIONS & SURVEY

Process

- MDH shall inspect each nursing home to ensure compliance with §§ 144A.01-144A.155 (Minn. Stat. § 144A.10, Subd. 2)
- Annual surveys conducted - MDH, Compliance Monitoring Division, under a cooperative agreement with the Centers for Medicare and Medicaid (CMS), is responsible for ensuring that facilities accepting Medicare and Medicaid payment for services provided to program beneficiaries meet federal regulations and certification rules; Results of surveys at:
<http://www.health.state.mn.us/divs/fpc/directory/surveyfindings.htm>

Violations

- Correction orders shall be issued by the MDH to the facility to correct a discovered violation (Minn. Stat. § 144A.10, Subd. 4)
- MDH shall assess a civil fine when a correction order is issued (Minn. Stat. § 144A.10, Subds. 6-8a)
- Placement of Monitor (42 C.F.R. 488.422)

Appeals

- Appeals of survey violations may be brought before Office of Administrative Hearings; Decisions can be found at <http://search.state.mn.us/oah/>

Locating Survey Information on a Provider

Office of Health Facility Complaints, MDH;

www.health.state.mn.us/divs/fpc/directory/surveyapp/provocompselect.cfm

STAFFING

Minimum Staffing – Minn. Stat. § 144A.04, Subd. 7; Minn. Rs. 4655.5100, 4658.0500

- *Director of Nursing –*
 - 1 full-time Director of Nursing (at least 35 hours per week)
 - Director must designate a nurse to be responsible in Director's absence
- *RN or LPN*
 - 1 RN or LPN 8 hours/day for 7 days/week
 - RN must be on call during all hours when no RN is on duty
- *Nursing Personnel (RN, LPN, Director of Nursing, and Nursing Assistant)*
 - 1 "responsible person" on duty at all times
 - Under 60 licensed beds – 2 hours of nursing personnel per resident daily, including Director of Nursing
 - 60 or more licensed beds – 2 hours of nursing personnel per resident daily, excluding Director of Nursing hours

BED HOLD

- 42 U.S.C. § 1396r(c)(2)(D) and 42 C.F.R. § 483.12(b); Minn. R. 9050.0150 (VA)
- A resident shall be readmitted to the nursing home after hospitalization, if he or she requires nursing home services and is eligible for Medical Assistance, upon the first availability of a bed in a semi-private room



LEAVING THE NURSING HOME

General Information

- **Federal Legislation (42 U.S.C. § 1396r(c)(2); 42 U.S.C. § 1395i-3(c)(2))**
 - *Requirements for Transfer or Discharge*
 - Resident must not be transferred or discharged unless necessary to meet the resident's welfare; the resident's health has improved; the safety or health of individuals at the facility is endangered; the residents has failed to pay (after reasonable notice); or the facility closes (§ 1396r(c)(2)(A))
 - The list of acceptable reasons for discharge is exclusive
 - Notice must be given prior to discharge or transfer (§ 1396r(c)(2)(B))
 - Nursing home must provide an orientation to ensure safe transfer or discharge (§ 1396r(c)(2)(C))
 - *Appeals*
 - State must provide an appeals of transfer or discharge decisions (§ 1396r(e)(3))
- **State Legislation**
 - *Requirements for Transfer or Discharge* (§ 144.651, Subd. 29 – Minnesota Health Care Bill of Rights)
 - Transfer of discharge of residents must not be arbitrary
 - Written notice is required at least 30 days before discharge and 7 days before transfer to another room
 - Notice shall include the resident's right to contest the proposed action
 - Involuntary discharge requires a preponderance of the evidence standard (*In the Matter of the Involuntary Discharge of Transfer of J.S. by Hall*, 512 N.W.2d 604 (Minn. App. 1994).
 - *Appeals* (§ 144A.135)
 - Appeals of transfer or discharge decisions are first brought before Office of Administrative Hearings (decisions can be found at <http://search.state.mn.us/oah/>). Further appeals can be filed in the state appellate court system.

TIP: Bringing Grandma Home

Voluntary discharge of a resident in an institutional setting to the care of someone in a non-institutional setting may be difficult. If you are wavering between caring for the resident at home and placing the resident in an institutional setting, consider that removing the resident voluntarily once placed may not be an easy process. The institutional facility by law needs to ensure that the discharged resident will receive the proper care and that the institutional facility is no longer responsible for the resident's care. Facilities may also resist voluntary discharge if the resident still owes money to the facility. As a result, the institutional facility may question whether family members can provide adequate care and in some cases contact county agencies to report possible neglect, which the facility is required to do by law.

BOARDING CARE HOME

DESCRIPTION

Facilities licensed as Boarding Care Homes have become less frequent (only 32 in the state), replaced by the nursing home concept and other senior housing and care options.

A "boarding care home" shall mean a licensed facility or unit used to provide care for aged or infirm persons who require only personal or custodial care and related services . . . A boarding care home license is required if the persons need or receive personal or custodial care only. Nursing services are not required. Examples of personal or custodial care include: board, room, laundry, and personal services; supervision over medications which can be safely self-administered; plus a program of activities and supervision required by persons who are not capable of properly caring for themselves (Minn. R. 4655.0100, Subp. 3). Most Boarding Care Homes are also Medicaid certified and choose to provide nursing services. Also, a resident may make their own arrangements for additional services as needed.

OTHER NAMES

Medicaid Nursing Facility

DEPARTMENT OVERSIGHT

<i>Boarding Care Home License</i>	Minnesota Department of Health (MDH)
<i>Boarding Care Home Survey Inspection</i>	Minnesota Department of Health (MDH)
<i>Nursing Home Administrator License</i>	Minnesota Board of Examiners of Nursing Home Administrators
<i>Background Study of Employees</i>	Minnesota Department of Human Services (DHS)

BOARD OVERSIGHT

If Federal Medicaid Certified - Board of Examiners of Nursing Home Administrators (Minn. Stat. §§ 144A.19; 144A.24; 214.01)

RESIDENT ADVISORY COUNCIL

Residents of a Boarding Care Home shall have the right to establish a Resident Advisory and Family Council for the purpose of providing residents and their families with educational and informational services (Minn. Stat. §§ 144A.33; 144.651, Subd. 27)

MAIN GOVERNING LAW

Federal

42 USC § 1396r - Social Security Act, § 1919 (Medicaid - Nursing Facility)
 42 CFR, Part 483, Subpart B (OBRA Regulations)
 42 U.S.C. § 3604(f); 24 C.F.R. 100 (Federal Fair Housing Act)

State

Minnesota Statutes §§ 144.50-144.58 (Authorization)
 Minnesota Rules 4655.0090-9655.9342 (MDH Regulations)
 Minnesota Rules 4660.0090-4660.9940 (Physical Plant)
 Minnesota Statutes § 504B (Landlord Tenant Law)

SERVICES PROVIDED



Federal Medicaid Certified (Minn. Stat. § 144.56, Subd. 2b(1); 42 USC § 1396r, Social Security Act § 1919)

- Personal or custodial care: meals; room; laundry; personal services; supervision over medications which can be safely self-administered; program of activities and supervision required by persons who are not capable of properly caring for themselves (Minn. R. 4655.0100).
- Some health-related care and services

Non-Federal Medicaid Certified/Other State Registration (Minn. Stat. § 144.56, Subd. 2b(2))

- Personal or custodial care: meals; room; laundry; personal services; supervision over medications which can be safely self-administered; program of activities and supervision required by persons who are not capable of properly caring for themselves (Minn. R. 4655.0100).
- Home care services as state registration allows

Non-Federal Medicaid Certified/Non-Other State Registration

- Personal or custodial care: meals; room; laundry; personal services; supervision over medications which can be safely self-administered; program of activities and supervision required by persons who are not capable of properly caring for themselves (Minn. R. 4655.0100).

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES)

Federal Medicaid Certified

- Nursing care
- Not eligible for Medicare payment
- No admittance for pregnant women; mentally disturbed; those with infectious disease; or children under the age of 16 (Minn. R. 4655.0400)
 - NOTE: This restriction on admittance may violate federal fair housing law

Non-Federal Medicaid Certified/Other State Registration

- Nursing care
- No health care services
- No home care services except as the state registration allows
- No admittance for pregnant women; mentally disturbed; those with infectious disease; or children under the age of 16 (Minn. R. 4655.0400)
 - NOTE: This restriction on admittance may violate federal fair housing law

Non-Federal Medicaid Certified/Non-Other State License or Registration

- Nursing care
- No additional health or home care services
- No admittance for pregnant women; mentally disturbed; those with infectious disease; or children under the age of 16 (Minn. R. 4655.0400)
 - NOTE: This restriction on admittance may violate federal fair housing law

LICENSE

Boarding Care Home License

License Governing Law:

Requirement	§ 144.50, Subd. 1; R. 4655.0300
Definition	§ 144.50, Subd. 2; R. 4655.0100
Powers of Commissioner of Health	§ 144.56
Application	R. 4655.0310
Variance or Waiver from rules	R. 4655.1000
New Medicaid Certified Moratorium Exception	§ 144A.071; R. 4655.1070-4655.1098

Application for License:

Applications are available on the MN Dept. of Health (MDH) web site, MN Health Care Facilities Programs, at Boarding Care Home.

Requirements:

- Accommodation for 5 or more persons for institutional care of human beings (Minn. Stat. § 144.50, Sub. 2).
- Specify one or more controlling persons or administrators who are responsible for the facility;
- Provide care for aged or infirm for person requiring only personal or custodial care in institutionalized setting (Minn. R. 4655.0100).
 - NOTE: This restriction on admittance may violate federal fair housing law. Consider reasonable accommodations.

Fee:

Base fee of \$183; plus \$91 per licensed bed; plus \$5 per licensed bed for nursing home resident advisory councils

Period of Issuance:

One calendar year ending December 31 (Minn. R. 4655.0300); License are not transferable

Renewal License

Renewed Annually

Nursing Home Administrator License (if Medicaid Certified)

License Governing Law:

Qualifications	Minn. Stat. § 144A.20
Licensure Requirements	R. 6400.5000-6400.6100
Delegation of Authority	R. 4658.0055
Course Requirements	R. 6400.6400-6400.6660
Responsibilities	R. 6400.6710
Continuing Education	R. 6400.6800
Discipline	R. 6400.6900
Fees	R. 6400.6970

License Requirements:



- Licensure by the Board of Examiners for Nursing Home Administrators (Minn. Stat. § 144A.18)
- Age 21 or older (Minn. Stat. § 144A.20, Subd. 1(a)).
- Meet standards designed by the Board of Examiners for Nursing Home Administrators (Minn. Stat. § 144A.20, Subd. 1(b)).
 - Specified coursework
 - Internship
 - Bachelor's degree
- Pass competency exam or otherwise be approved by the Board of Nursing Home Administrators (Minn. Stat. § 144A.20, Subd. 1(c)).
 - National exam
 - State rules test

Application for License:

Application form is available on the BENHA web site

Fee:

Application fee - \$150
National exam fee - \$285
Rules exam fee - \$75
Initial license fee - \$200
Annual renewal fee - \$200

Period of Issuance:

Annual

Length of Determination Process:

Board meets 4 times a year; National exams by appointment; State exams every other month.

REPORTING REQUIREMENTS OF FACILITY

An Annual Statistical Report is required to be completed by the provider online by December 31 of each year.

INSPECTIONS & SURVEY

- If Medicaid certified, then an annual survey is conducted by MDH, Compliance Monitoring Division, under a cooperative agreement with the Centers for Medicare and Medicaid (CMS), who is responsible for ensuring that facilities accepting Medicare and Medicaid payment for services provided to program beneficiaries meet federal regulations and certification rules (Minn. Stat. § 144.653).
- MDH may place a monitor in certified boarding care home (Minn. Stat. § 144A.155).

VETERANS HOME

DESCRIPTION

A Veterans Home provides long-term care for veterans of the armed services. The facilities are run by the Minnesota Department of Veterans Affairs (approximately 400,000 veterans in Minnesota). There are five Homes in Minnesota located in Fergus Falls, Hastings, Luverne, Minneapolis and Silver Bay. The Homes operate with a Boarding Care Home license and are governed by the same care standards as nursing homes. However, a main difference between a nursing home and a veterans home is the payment system. The Veterans Home uses a means-based test to determine payment level. Also, the homes are not certified to receive Medicare funds.

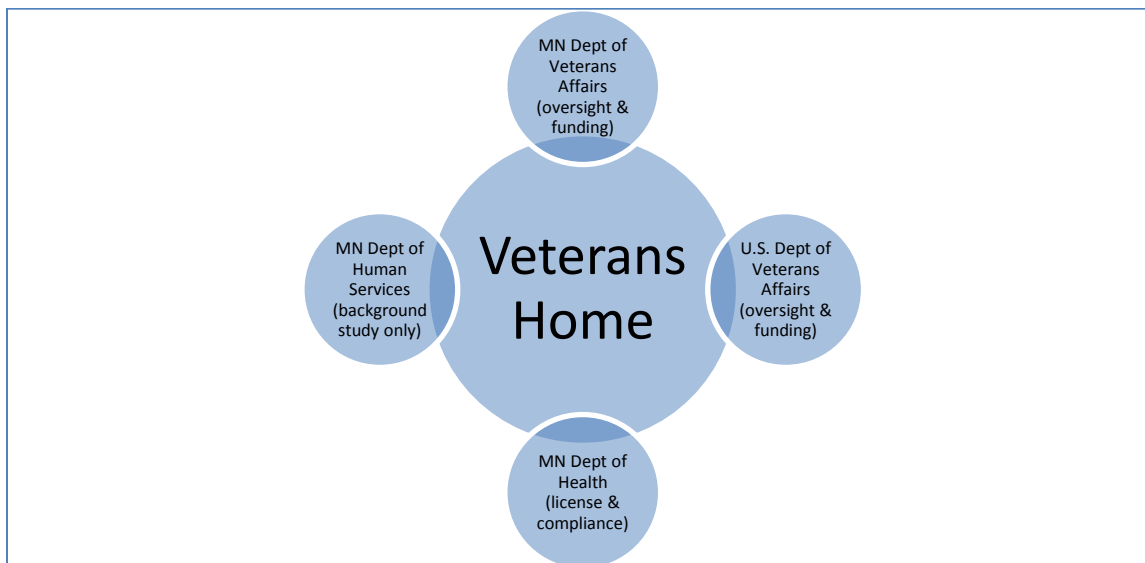
The Minnesota Veteran's Homes are not to be confused with the Veterans Hospital, providing hospital services to veterans through the U.S. Department of Veterans Affairs.

STATUTORY DEFINITION

The Minnesota veterans homes shall provide nursing care and related health and social services for veterans and their spouses who meet eligibility and admission requirements of the Minnesota veterans homes (Minn. Stat. § 198.01).

The word "veteran" as used in Minnesota Statutes . . . means a citizen of the United States or a resident alien who has been separated under honorable conditions from any branch of the armed forces of the United States after having served on active duty for 181 consecutive days or by reason of disability incurred while serving on active duty, or who has met the minimum active duty requirement as defined by Code of Federal Regulations, title 38, section 3.12a, or who has active military service certified under section 401, Public Law 95-202 (Minn. Stat. § 197.447).

Figure 8 - Coordination with Other State Departments and Department of Veteran's Affairs



OTHER NAMES

Veterans Hospitals, which are operated by the federal Department of Veterans Affairs for acute care, are distinct from Veterans Homes operated by state Department of Veterans Affairs

DEPARTMENT OVERSIGHT

Minnesota Department of Veterans Affairs – Oversight & Funding
Minnesota Department of Human Services – Background Studies
Minnesota Department of Health – Boarding Care Home licensure; Surveys

MAIN GOVERNING LAW

Federal

42 USC § 1396r - Social Security Act, § 1919 (Medicaid - Nursing Facility)
38 C.F.R. 17, 51, 52, 59 (Pensions, Bonuses, and Veteran's Relief)
42 U.S.C. 3604(f); 24 C.F.R. 100 (Fair Housing Act)

State

Minnesota Statutes §§ 198 *et seq* – Veterans Homes
Minnesota Statutes §§ 144.50 – .56 – Hospital & Boarding Care Home Licensure
Minnesota Statutes §§ 144A.02-.10 – Nursing Home Licensure
Minnesota Statutes § 144.651 – Health Care Bill of Rights
Minnesota Rules 9050 *et seq* – Rules governing Veterans Home
Minnesota Rules 4655 and 4660 – Rules governing Boarding Care Homes
Minnesota Statutes § 504B *et seq* (Landlord Tenant Law)

SERVICES PROVIDED

Skilled Nursing Services
Domiciliary Services (board; lodge; allow spouses to reside at Home; no direct health-related services)

SERVICES NOT PROVIDED

Not Certified for Medicare, so services required by Medicare facilities do not apply

ADMISSION

Admission is based on application, medical need, and status as a veteran. Currently a long waiting list exists for most facilities.

LICENSE CONDITION

License Governing Law:

Minn. Stat. § 144.562

UNIQUE ASPECTS OF VETERANS HOME

- Payment
 - Different cost system than Medical Assistance or Medicare
 - The MDVA uses a “means-based” test to determine cost to the resident, which is based on level of care (\$70/day for SNF; \$30/day for domiciliary)
 - Look-back period is 12 months (not 5 years)
 - Transfers can be made to spouse without adverse asset determinations (transfers to children subject to 12 month lookback period)
 - If assets are under \$3,000, then MDVA looks at income
 - Resident pays “maintenance charge,” which is the equivalent of what he or she is able to pay. The charge is approximately \$70/day for a skilled nursing
- Regulations - Homes do not operate under CMS Rules since they are not Medicare certified
- HIPPA - Homes are not subject to HIPPA requirements (but are subject to data practices requirements)
- Legal Representation – only the Minnesota Attorney General can officially represent Veterans Homes

COMPLAINT PROCESS

- A resident may send complaint to:
 - Administrator of Home or the Commissioner of the Minnesota Department of Veterans Affairs
 - Office of Health Facility Complaints - MDH
 - Office of Ombudsman for Long-Term Care (Regional Ombudsman dedicated to Veterans Homes)

INSPECTIONS & SURVEY

- Surveyed annually by both the MDH and the U.S. Department of Veterans Affairs
- Federal Surveys are not on-line

SUPERVISED LIVING FACILITY

DESCRIPTION

A supervised living facility provides supervision and lodging to 5 or more persons who are mentally retarded, chemically dependent, adult mentally ill, or physically handicapped, in accordance with the Department of Human Services counseling and developmental habilitative or rehabilitative services (Minn. R. 4665.0100, Subp. 10).

"Intermediate care facility for persons with developmental disabilities" or "ICF/MR" means a residential program licensed to provide services to persons with developmental disabilities . . . and a physical facility licensed as a supervised living facility . . . which together are certified by the Department of Health as an intermediate care facility for persons with developmental disabilities (Minn. Stat. § 245B.02, Subd. 13).

OTHER NAMES

Intermediate Care Facility for Persons with Mental Retardation (ICF/MR)
Intermediate Care Facility for the Developmentally Disabled (ICF/DD)
Rule 35 & Rule 36

DEPARTMENT OVERSIGHT:

<i>Supervised Living Facility License</i>	Minnesota Department of Health (MDH)
<i>Program License</i>	Minnesota Department of Human Services (DHS)
<i>Background Study of Employees</i>	Minnesota Department of Human Services (DHS)

BOARD OVERSIGHT

No Board of Examiners for Nursing Home Administrator oversight
County Board Agencies (as authorized by the DHS)

MAIN GOVERNING LAW

Minnesota Statutes §§ 144.50-144.58
Minnesota Statutes § 245B.01-.08
Minnesota Rules 4665.0100-4665.9900.
Minnesota Statutes §§ 504B (Landlord Tenant Law)
42 U.S.C. 3604(f); 24 C.F.R. 100 (Fair Housing Act)

SERVICES PROVIDED

- Meals, food, lodging, supervision, habilitative and rehabilitative services
- Housekeeping at least weekly (R. 4665.5600)
- Self-administration of prescription medication ordered by physician (R. 4665.4300)

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES) –

- NOT necessarily treatment, educational training, personal care, or sheltered workshop services on a 24 hour-a-day basis. Some of these services may be provided to residents either by having the service brought into the facility or by assuring that the resident receives appropriate services elsewhere (R. 4665.0200, Subp. 4)
- NOT necessarily staff-administration of medication
- NOT continuing medical or nursing care (R. 4665.0200, Subp. 3)

LICENSE INFORMATION

Supervised Living Facility License (from MDH)

License Governing Law

Powers of Commissioner of Health	§ 144.56
Application	R. 4665.0400, Subp. 1
License	R. 4665.0300

Requirements:

- Must be 4 or more residents (§ 144.50, Subd. 6)
- Must receive appropriate License (A or B) depending on ability of resident to evacuate in an emergency and number of residents in the facility (R. 1300.0070, Subp. 23)
- Functional services are provided in safe, healthful, and sanitarily operated and maintained buildings (R. 4655.0200, Subp. 5A)
- Only those persons are accepted as residents whose needs can be met by the facility directly or in cooperation with other resources with which there is evidence of acceptable agreements or arrangements (R. 4655.0200, Subp. 5B).
- Evaluation of individual at time of admission and periodically thereafter performed by DHS to determine that:
- Resident has disabilities that prevent or limit independent living; and Resident is not in need of continuing medical or nursing care (R. 4665.0200, Subp. 3). The resident may secure his or her own medical or nursing care, according to fair housing law.
- Program Licensure by the DHS prior to supervised facility licensure under MDH (R. 4665.0700)

Types of Supervised Living Facility Licensure from MDH:

Class A –

- Home for ambulatory and mobile persons who are capable of taking appropriate action for self-preservation under emergency conditions
 - NOTE: Raises potential fair housing issues
- Persons with physical disabilities shall be housed at the street level (R. 4665.0500A)
 - NOTE: Raises potential fair housing issues
- Types (Minn. R. 1300.0070, Subp. 23)
 - Class A-1 License is issued for facilities housing 6 or fewer people
 - Class A-2 is issued for facilities housing 7-16 people

Class B –

- Home for ambulatory, nonambulatory, mobile, or nonmobile persons who are NOT mentally or physically capable of taking appropriate action for self-preservation under emergency conditions (R. 4665.0500B)
- Types (Minn. R. 1300.0070, Subp. 23)
 - Class B-1 License is issued for facilities housing 6 or fewer people
 - Class B-2 is issued for facilities housing 7-16 people
 - Class B-3 is issued for facilities housing more than 16 people

Fee:

Base fee of \$183; plus \$91 per bed.

Period of Issuance:

One calendar year ending December 31st.

Renewal License:

Annually for calendar year

Other Pertinent Information:

- Prior to admission, a registered predatory offender must inform the supervised living facility staff of that status (Minn. Stat. § 243.166)

Program Licensure (from DHS)

Chemical Dependency Detoxification Program (Rule 32; R. 9530.6520)

Minnesota Statutes § 245A

Minnesota Statutes § 245C

Minnesota Rules 9530.6510–9530.6590

Requirements:

Standards regulated: Detoxification services; Requirements for conducting assessments and referrals of persons receiving services; Ensuring rights of persons receiving services; Identifying staff qualifications, orientation and training requirements; and Policy and procedure requirements of the program.

Facility must also obtain a "Supervised Living Facility" license from the Minnesota Department of Health (Minn. Rules, Chapter 4665), governing the construction, equipment, maintenance, and operation of the facility as it relates to sanitation and safety of the buildings as well as to the health, treatment, comfort, safety, and well-being of the persons being served.

Fee:

Initial license application fee is \$500

Annual License Fee: See Minn. Stat. § 245A.10

Period of Issuance:

One calendar year ending December 31

Renewal:

Annually

Residential-Based Habilitation Services for Persons with Developmental Disabilities (DHS Rule 34)

Minnesota Statutes § 245A

Minnesota Statutes § 245B

Minnesota Statutes § 245C

Minnesota Rules 9525.2700-9525.2780 (DHS Rule 40 - Standards for governing the use of deprivation procedures)

Requirements:

- Standards regulated:
 - Requirements for conducting assessments of persons receiving services
 - Developing programming to respond to identified needs of the individual
 - Ensuring rights of persons receiving services;
 - Identifying staff qualifications, orientation and training requirements,
 - Service expectations to ensure health and safety of persons receiving services
 - Policy and procedure requirements of the program.
- Use of Psychotropic Medication Use Checklist (PMUC) and Psychotropic Medication Monitoring Manual
- Letter of acknowledgment is required from the county where services are to be provided. The county needs to state that they are aware the applicant is applying for a waiver services licenses for their county. An applicant should contact the Developmental Disabilities planning division within the appropriate county to obtain this acknowledgment.
- Residential based habilitation services are available under the DD waiver and include Supported Living Services (SLS) which are provided in a licensed foster care site, or In-Home Family Support Services (IHFS) that are provided in a consumer's home.
- License is issued for the county where services will be provided. A license is needed for each county where services will be provided.

Fee:

Initial license application fee is \$500 (not prorated; nonrefundable)

Annual License Fee: See Minn. Stat. § 245A.10

Period of Issuance:

One calendar year ending December 31

Renewal License:

Annually

Chemical Dependency Treatment (Non-Detox; Rule 31; formerly Rules 35 & 43)

Main Governing Law:

Minnesota Statutes 245A
Minnesota Statutes 245C
Minnesota Rules 9530.6405-9530.6505

Requirements:

- Standards regulated:
 - Requirements for conducting assessments of persons receiving services;

Elder Care Guide

- Developing programming to respond to identified needs of the individual;
- Ensuring rights of persons receiving services;
- Identifying staff qualifications, orientation and training requirements; and
- Policy and procedure requirements of the program.

Fee:

Initial license application fee is \$500 (not prorated; nonrefundable)

Annual License Fee: See Minn. Stat. § [245A.10](#).

Period of Issuance:

One calendar year ending December 31

Renewal License:

Annually

Residential Treatment Programs for Mentally Ill Adults (Rule 36)

Main Governing Law:

Minnesota Statutes § 245A

Minnesota Statutes § 245C

Minnesota Rules 9520.0500-9520.0690 (DHS Rule 36)

Requirements:

- DHS may also grant a variance under the residential treatment rule for adults with mental illness (Rule 36) to provide Intensive Residential Treatment Services or Crisis Services.
- Standards regulated:
 - Requirements for conducting assessment of persons receiving services;
 - Developing programming to respond to identified needs of the individual;
 - Ensuring rights of persons receiving services;
 - Identifying staff qualifications, orientation and training requirements;
 - Service expectations to ensure health and safety of persons receiving services; and
 - Policy and procedure requirements of the program
- Depending on the type of service, these facilities must also obtain a "Supervised Living Facility" license from the Minnesota Department of Health (Minn. Rules, chapter 4665) or a "Board and Lodging" license from the Minnesota Department of Health (Minn. Rules, chapter 4625) or its equivalent from a local health department.

Fee:

Initial license application fee is \$500 (not prorated; nonrefundable)

Annual License Fee: See Minn. Stat. sect. 245A.10

Period of Issuance:

One calendar year ending December 31

Renewal License:

Annually

Category 1 License (Mentally III)

Description:

"Category I program" means a mental health residential program which provides program services in which there is an emphasis on services being offered on a regular basis within the facility with the use of community resources being encouraged and practiced. (Minn. R. 9520.0510, Subp. 4)

The Program was designed to serve residents at a facility. Not many Category 1 facilities exist any longer due to higher standards being met in order to be eligible for federal Medicare funding (IRTS Variance).

Main Governing Law:

Minnesota R. 9520.0660

Category II License – (Mentally III)

Description:

A Category 2 program is designed to meet the needs of mentally impaired individuals through community based services. Not many programs are in existence due to higher standards being required in order to qualify for federal Medicare funding (IRTS variance).

"Category II program" means a mental health residential program which provides either a transitional semi-independent living arrangement or a supervised group supportive living arrangement for persons who are mentally ill. This type of program offers a combination of in-house and community resource services with emphasis on securing community resources for most daily programming and employment. (Minn. R. 9520.0510, Subp. 5)

INSPECTION & SURVEY

- MDH is required to inspect Supervised Living Facility annually (§ 144.653)
- MDH may fine facilities who do not comply with corrective orders (§ 144.653; R. 46665.9000)
- MDH/DHS required to monitor supervised living facilities (§ 245A.095)

ADULT FOSTER CARE LICENSE (DHS RULE 203)

DESCRIPTION

A home of up to 5 residents organized for the purpose of caring for functionally impaired residents.

"Adult foster care" means the provision of food, lodging, protection, supervision, and household services to a functionally impaired adult in a residence and may also include the provision of personal care, household and living skills assistance or training, medication assistance (Minn. R. 9555.6225, Subp. 8) and assistance safeguarding cash resources (Minn. R. 9555.6265). See Minn. R. 9555.5105, Subp. 3.

"Adult foster home" means a residence operated by an operator who, for financial gain or otherwise, provides 24 hour foster care to no more than four functionally impaired residents and a residence with five or six residents as authorized (Minn. R. 9555.5105, Subp. 5).

Adult foster homes may also provide care for 5 or more adult residents who are mentally ill (Minn. R. 9520.0500).

OTHER NAMES

Residential Housing Settings

DEPARTMENT OVERSIGHT

Minnesota Department of Human Services (DHS)

The Minnesota Department of Human Services (DHS) has delegated the licensing of adult foster homes to the counties. For license information, contact your County Social Services Department or County Human Services Department.

MAIN GOVERNING LAW

Minnesota Statutes § 245A (§ 245A.11)

Minnesota Rules 9555.5105-9555.6265

Minnesota Rules 9520.0500

Minnesota Statutes §§ 504B (Landlord Tenant Law)

42 U.S.C. 3604(f); 24 C.F.R. 100 (Fair Housing Act)

LICENSE INFORMATION

Requirements:

- Standards regulated (by DHS Rule 203):
 - Applicability, purpose, foster home development, local agency orientation and training role;
 - Record on the residence and assessment;
 - Provision of adult foster care services to residents of adult foster homes, applicability and purpose;
 - License application process, licensing study, negative licensing actions;
 - Capacity, individual resident placement agreement, cooperate and report to agencies, foster care training;
 - Prohibition against abuse, neglect and discrimination;
 - Physical environment, water and food, sanitation, and health;
 - Adult foster home program, personal record of resident in foster care, resident rights and safeguards for cash resources entrusted to operator.
- Counties may require that the applicant complete forms that provide necessary licensing information.

Fee:

- A county agency may charge a fee to a corporate applicant to recover the actual cost of the background studies
- A county agency may also charge a fee to a corporate applicant to recover the actual cost of licensing inspections, not to exceed \$500 annually
- Counties may elect to reduce or waive the fees:
 - In cases of financial hardship;
 - If the county has a shortage of providers in the county's area; or
 - For new providers.

Period of Issuance:

Initial license is one year

Renewal License

Two years (after first year of licensure)

INSPECTIONS & SURVEY

Every 2 years by the DHS

MEMORY CARE

DESCRIPTION

Provide care for adults with Alzheimer's and related neurological impairment diseases marked with cognitive decline in various settings including nursing homes and residential homes.

OTHER NAMES

Alzheimer's Care
Dementia Care

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)
For care offered by nursing home and class A or F licensed providers and housing with services registrants
Minnesota Department of Human Services
For care offered by Adult Foster Care and Adult Day Services licensed providers

MAIN GOVERNING LAW

Minnesota Statutes § 144.6503 (Training for Nursing Facilities)
Minnesota Statutes § 144A.45, Subd. 5 (Training for Home Care Providers)
Minnesota Statutes § 144D.065 (Training for Housing with Services)
Minnesota Statutes § 325F.72 (Disclosure of Special Status of Memory Care)
Minnesota Statutes §§ 504B (Landlord Tenant Law)
42 U.S.C. 3604(f); 24 C.F.R. 100 (Fair Housing Act)

SERVICES PROVIDED

- Services vary depending on the facility or provider's license and program and are not necessarily specific to a Memory Care unit.
- Minnesota law requires direct contact staff and supervisors in facilities that offer and/or advertise Memory Care to be trained in Memory care.

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES)

- Services not provided vary depending on the provider license; please see the appropriate license category in this Guide for more information.
- Minnesota law does not require that certain services be offered by providers advertising Memory Care. However, Minnesota law does require direct contact staff and supervisors be trained in Memory Care, if those services are advertised or offered.

LICENSE

No "Memory Care" license exists in the State of Minnesota. Facilities offering Memory Care have various other licenses listed in this Guide, such as Nursing Home, Class A or Class F, Adult Foster Care, or Adult Day Services licenses. See the appropriate license section in this Guide for requirements for that license.

REQUIRED DISCLOSURE FOR HOUSING WITH SERVICES

If a Housing With Services establishment promotes services for persons with Alzheimer's disease, the provider must disclose in writing the following to consumers (Minn. Stat. § 325F.72, Subd 2):

- A statement of the overall philosophy and how it reflects the special needs of residents with Alzheimer's disease or other dementias;
- The criteria for determining who may reside in the special care unit;
- The process used for assessment and establishment of the service plan or agreement, including how the plan is responsive to changes in the resident's condition;
- Staffing credentials, job descriptions, and staff duties and availability, including any training specific to dementia;
- Physical environment as well as design and security features that specifically address the needs of residents with Alzheimer's disease or other dementias;
- Frequency and type of programs and activities for residents of the special care unit;
- Involvement of families in resident care and availability of family support programs;
- Fee schedules for additional services to the residents of the special care unit; and
- A statement that residents will be given a written notice 30 days prior to changes in the fee schedule.

STAFF EDUCATION

Several curricula meet the statutory staff education requirements of Minnesota Statutes §§ 144.6503, 144A.45, Subd. 5, and 144D.065, such as *Foundations of Dementia Care* through the Alzheimer's Association.

Staff Education Requirements:

- ***Who must receive staff education*** – direct care staff and their supervisors of:
 - Nursing facilities serving persons with Alzheimer's disease (Minn. Stat. § 144.6503).
 - Housing with Services Establishments who promote services for persons with Alzheimer's disease (Minn. Stat. § 144D.065).
 - Home Care Providers who promote services for persons with Alzheimer's disease (Minn. Stat. § 144A.45, Subd. 5).
 - Adult Day Services providers who promote services for persons with Alzheimer's disease (Minn. Stat. § 245A.05, Subd. 12).
- ***Content*** - Areas of required staff education include:
 - (1) an explanation of Alzheimer's disease and related disorders;
 - (2) assistance with activities of daily living;
 - (3) problem solving with challenging behaviors; and
 - (4) communication skills.
- ***Disclosure*** – Providers must supply consumers a written description of the staff education program, the categories of employees educated, the frequency of the staff education, and topics covered.

HOUSING WITH SERVICES ESTABLISHMENT REGISTRATION

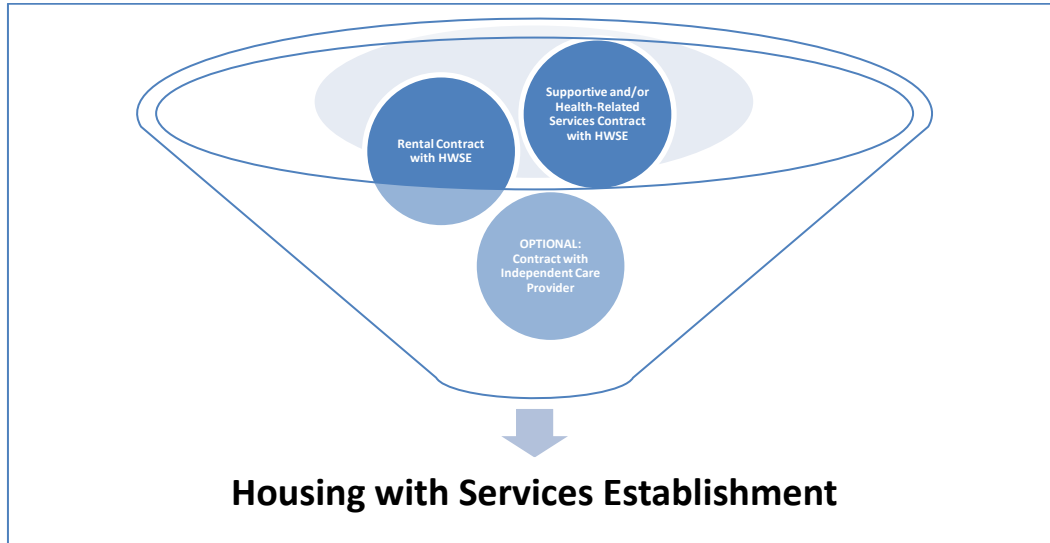
DESCRIPTION

A “Housing with Services Establishment” (HWSE) generally refers to a housing provider offering room and board to tenants in an apartment-style building along with offering at least some supportive and/or health-related services. The relationship between a HWSE and the individual residing there is much like that of a landlord and tenant. However, instead of signing only one contract for housing, the landlord and tenant sign 2 contracts - one for housing and a separate contract for the types of services the landlord and tenant agree that the landlord will provide.

A HWSE is distinguishable from a home care provider in that the tenant lives in the apartment-style building as opposed to living at home, where services may be brought into the home. A HWSE is also distinguishable from a nursing home in that it does not offer 24/7 on-site nursing care and the tenant lives in his or her own apartment-style room, often complete with a kitchen.

OVERVIEW

Figure 9 - Types of Contracts between HWSE and Resident



TIP: Before entering a Housing with Services Establishment or any health care facility, keep in mind:

- That the tenant can request that additional services be brought in if the establishment is unable to meet the tenant's needs.
- That the provider may be able to assist the tenant locating and accommodating additional services should they be requested or become necessary.

- **History** - The Minnesota legislature enacted the Housing with Services Establishment Act in 1995 to allow individual housing programs flexibility in determining their own services and approach to senior care. Registration as a HWSE is intended to notify the public that vulnerable tenants live in the building, **but the registration it is not a license**. Therefore, HWSE are not regulated like nursing homes, such as being surveyed annually to determine compliance with federal OBRA regulations. Instead of regulation by statute, the HWS legislation contemplates allowing consumers to regulate the senior housing market by making informed choices about providers through negotiating individual contracts.
- **Registration v. License** - The Housing with Services registration only applies to the registration of the actual building. The HWSE may then contract out for health or supportive services or provide such services themselves. The health or supportive services are given by a “home care provider.” All home care providers must obtain a license from the MDH to perform services. Licensure for entities providing health and supportive services, whether by an outside entity or the landlord themselves, are generally divided into four categories.
 - **Class A** - First, an outside provider may contract with the HWSE to enter the HWSE and perform all health and home care services, including nursing services under a **Class A license**. Class A licensure requires heightened training and supervision of staff compared to the other classes of licensure below. Those holding a Class A license may perform services in any location, not just a HWSE. (See “Class A” section).
 - **Class F** - Second, the housing program itself may provide health and home care services, under a **Class F license**. Entities holding a Class F license may *only* provide services in a HWSE, but they may provide Class F services for more than one HWSE. (See “Class F” section).
 - **Class B** - Third, an outside provider may hold a license to perform home care aide services (i.e. meal preparation, dressing), but not nursing services under a **Class B license**. (See “Class B” section).
 - **Class C** - Fourth, an outside provider may hold a license to perform home health aide and home care aide services (i.e. administer medications and bathing), but not full nursing services under a **Class C license**. (See Class C section).

In addition to the Class A, B, C, or Class F licensure and HWS registration, a housing program may hold an adult foster care or other license with the intention of operating as a residential or group home serving 5 to 20 residents.
- Some HWSE may choose to title their housing program “**assisted living**” if the program meets the requirements defined in Minn. Stat. § 144G.

Statutory Definitions

- ***Housing with services establishment*** or "establishment" means an establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled ***health-related services*** or two or more regularly scheduled ***supportive services***, whether offered or provided directly by the establishment or by another entity arranged for by the establishment (Minn. Stat. § 144D.01, Subd. 4).
- ***Supportive services*** means help with personal laundry, handling or assisting with personal funds of residents, or arranging for medical services, health-related services, social services, or transportation to medical or social services appointments. Arranging for services does not include making referrals, assisting a resident in contacting a service provider of the resident's choice, or contacting a service provider in an emergency (Minn. Stat. § 144D.01, Subd. 5).
- ***Health-related services*** include professional nursing services, ***home health aide tasks***, and ***home care aide tasks*** identified in Minnesota Rules, parts 4668.0100, subparts 1 and 2; and 4668.0110, subpart 1; or the central storage of medication for residents (Minn. Stat. § 144D.01, Subd. 6).
 - ***Home Health Aide tasks*** may be performed by trained individuals holding a Class A, C, or F license and include:
 - Administration of medications
 - Performing routine delegated medical or nursing or assigned therapy procedures
 - Assisting with body positioning or transfers of clients who are not ambulatory
 - Feeding of clients who, because of their condition, are at risk of choking
 - Assistance with bowel and bladder control, devices, and training programs
 - Assistance with therapeutic or passive range of motion exercises
 - Providing skin care, including full or partial bathing and foot soaks
 - During episodes of serious disease or acute illness, providing services performed for a client or to assist a client to maintain the hygiene of the client's body and immediate environment, to satisfy nutritional needs, and to assist with the client's mobility, including movement, change of location, and positioning, and bathing, oral hygiene, dressing, hair care, toileting, bedding changes, basic housekeeping, and meal preparation (Minn. R. 4668.0100, Subp. 1).
 - ***Home Care Aide tasks*** may be performed by individuals holding a Class A, B, C, or F license and include:
 - Preparing modified diets, such as diabetic or low sodium diets
 - Reminding clients to take regularly scheduled medications or perform exercises
 - Household chores in the midst of sophisticated medical equipment or acute illness
 - Household chores when the client's care requires the prevention of exposure to infectious disease or containment of infectious disease

- Assisting with dressing, oral hygiene, hair care, grooming, and bathing, if the client is ambulatory, and if the client has no serious acute illness or infectious disease. Oral hygiene means care of teeth, gums, and oral prosthetic devices (Minn. R. 4668.0110, Subp. 1).
- **Personal Care Provider Organization (PCPO)** – An employer providing oversight and training for its staff of PCAs. Minn. Stat. §§ 256B.0655, Subd. 1(g) & *et seq*; Minn. R. 9505.0335, Subp. 5.
- **Personal Care Agency (PCA)** – The individual needing care supervises the PCA. Minn. Stat. § 256B.0655 *et seq*; Minn. Stat. § 256B.0625, Subd. 19(a); Minn. R. 9505.0335.

OTHER NAMES

Assisted Living (if compliance with § 144G)
Continuing Care Retirement Community (Campus model)
Personal Care Suites
Residential or Group Home (often additional licensure such as Adult Foster Care)
Senior Housing with Services

DEPARTMENT OVERSIGHT

Registration Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes § 144D (Housing with Services Establishment)
Minnesota Statutes § 325D (Deceptive Trade Practices)
Minnesota Statutes § 325F.72 (Consumer Fraud; Disclosure of Special Care Status)
Minnesota Statutes § 144G (Assisted Living)
Minnesota Statutes §§ 157 (Board & Lodging License)
Minnesota Statutes § 504B (Landlord Tenant Law for rental facilities)
Minnesota Statutes §§ 515B and 308A (Common Interest Ownership & Cooperative)
Minnesota Statutes §§ 325D and 325F (Consumer Protection Statutes)
Minnesota Statutes § 363A.03
42 U.S.C. § 3604(f); 24 C.F.R. § 100 (Fair Housing Act)

SERVICES PROVIDED

- Minimum Services provided include one health-related task OR two or more supportive services, including personal laundry, handling or assisting with personal funds of residents, or arranging for medical services, social services, or transportation to medical or social services appointments
- Additional services may be provided depending on the licensure of the facility, such as nursing, medication administration, therapy, etc.

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES)

- Services NOT authorized by the facility's contract are not provided (i.e. the facility may choose not to provide certain services above the minimum required services, subject to reasonable accommodations under the fair housing laws)

REGISTRATION



Requirements:

- An establishment that meets all the statutory requirements, except that fewer than 80% of the adult residents are age 55 or older may, at its option, register as a housing with services establishment (Minn. Stat § 144D.025).
- Facilities are required to give more complete information to consumers than required by Landlord Tenant law, such as the following items (§ 144D.03, Subd. 2):
 - (1) the business name, street address, and mailing address of the establishment;
 - (2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners are not natural persons, identification of the type of business entity of the owner or owners, and the names and addresses of the officers and members of the governing body, or comparable persons for partnerships, limited liability corporations, or other types of business organizations of the owner or owners;
 - (3) the name and mailing address of the managing agent, whether through management agreement or lease agreement, of the establishment, if different from the owner or owners, and the name of the on-site manager, if any;
 - (4) verification that the establishment has entered into a housing with services contract, as required in section 144D.04, with each resident or resident's representative;
 - (5) verification that the establishment is complying with the requirements of section [325F.72](#), if applicable;
 - (6) the name and address of at least one natural person who shall be responsible for dealing with the commissioner on all matters provided for in sections 144D.01 to 144D.06, and on whom personal service of all notices and orders shall be made, and who shall be authorized to accept service on behalf of the owner or owners and the managing agent, if any; and
 - (7) the signature of the authorized representative of the owner or owners or, if the owner or owners are not natural persons, signatures of at least two authorized representatives of each owner, one of which shall be an officer of the owner.

Fee:

\$155 for each establishment address.

Period of Issuance:

Effective date of initial license through July 31

Renewal License

Annually

ADDITIONAL INFORMATION

- www.health.state.mn.us/divs/proinfo/cms/alhcp/hws_regs.pdf

HOME HEALTH AGENCIES

OVERVIEW

- A home health agency is any entity that regularly engages in the delivery of home care services for a fee. At least one home care service must be provided directly (Minn. R. 4668.0180, Subp. 2), although additional home care services may be provided by contractual arrangements.
- A home care provider must have a current license to operate in the state. Four different types of licenses are available:
 - Class A Professional Home Care Agency (i.e. Nursing services)
 - Class B Paraprofessional Agency License (Home Care Aide and Home Management)
 - Class C Individual Paraprofessional License (Home Health Aide, Home Care Aide, and Home Management)
 - Class F Home Care Provider (formerly Assisted Living)
- A Home Health Care Agency may obtain certification to participate in the Medicare program through an outside organization such as the Joint Commission (JCAHO) or Community Health Accreditation Program (CHAP). Once accredited, the provider has “Deemed Status” to participate. For more information, visit www.jointcommission.org or www.chapinc.org.

Statutory Definitions

- "Home care provider" means an individual, organization, association, corporation, unit of government, or other entity that is regularly engaged in the delivery, directly or by contractual arrangement, of home care services for a fee. At least one home care service must be provided directly, although additional home care services may be provided by contractual arrangements (Minn. Stat. § 144A.43, Subd. 4).
- "Home care service" means an array of nursing, therapy, and home management services when delivered in a place of residence to a person whose illness, disability, or physical condition creates a need for the service (Minn. Stat. § 144A.43, Subd. 3).
- “Home management services” include at least two of the following services: housekeeping, meal preparation, and shopping when delivered in a place or residence to a person whose illness, disability, or physical condition creates a need for the service (Minn. Stat. § 144A.43, Subd. 3).

OTHER NAMES

Home Care Agencies

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

Minnesota Statutes § 144A.42-144A.48

Minnesota Statute § 144A.44 (Home Care Bill of Rights)

Minnesota Rules 4668

LICENSE

Fees:

- Fees are based on revenue derived from the provision of home care services during the previous calendar year, except that:
 - Fees for assisted living home care providers are based on the monthly average number of clients served

Period of Issuance:

Effective date of initial license for one year

Renewal License:

Annually

TYPES OF HOME CARE LICENSES

1. CLASS A LICENSE

DESCRIPTION

An entity holding a Class A license may provide both nursing services and non-nursing services “anywhere and at anytime.” The company comes to a designated location, such as the place of residence, to provide care. Heightened training and supervision requirements apply to Class A licensees versus Class F licensees.

A “Class A” entity may provide all home care services, at least one of which is nursing, physical therapy, speech, therapy, occupational therapy, nutritional services, medical social services, home health aide tasks, or the provision of medical supplies and equipment when accompanied by the provision of home care services. Services may be provided in a place of residence, including a residential center, and a housing with services establishment.

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes §§ 144A.43-144A.47

Minnesota Statutes §§ 144G

Minnesota Rules 4668 and 4669

INSPECTIONS & SURVEY

A periodic survey of the Class A licensed facility is conducted by the MDH.

2. CLASS B PARAPROFESSIONAL AGENCY LICENSE

DESCRIPTION

A provider may perform home care aide and home management tasks in a place of residence.

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes §§ 144A.43-144A.47

Minnesota Rules 4668 and 4669

3. CLASS C INDIVIDUAL PARAPROFESSIONAL LICENSE

DESCRIPTION

A provider may perform home health aide, home care aide, and home management tasks in a place of residence

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes §§ 144A.43-144A.47

Minnesota Rules 4668 and 4669

4. CLASS F HOME CARE PROVIDER LICENSE

DESCRIPTION

- An entity holding a Class F license provides nursing care in housing with services establishments. The license holder can only provide services in one or more Housing with Services buildings.
- "Class F home care provider" means a home care provider who provides nursing services, delegated nursing services, other services performed by unlicensed personnel, or central storage of medications solely for residents of one or more housing with services establishments registered under chapter 144D. (Minn. Stat. § 144A.4605, Subd. 1)
- Some class F home care providers and/or Housing with Services establishments they serve may choose to call themselves or their services "assisted living" and must then meet the requirements for the use of the term assisted living as defined in § 144G

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes §§ 144A.43-144A.47

Minnesota Statutes §§ 144G

Minnesota Rules 4668 and 4669

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES)

- Therapies (physical, speech, respiratory and occupational)
- Medical social services
- Nutritional services
- Provision of medical supplies and equipment under serviced not provided by a Class F provider

INSPECTIONS & SURVEY - A periodic survey of the provider is completed by the MDH.

5. ASSISTED LIVING TITLE PROTECTION

DESCRIPTION

The state of Minnesota does not license or register a facility as “assisted living.” Rather, a facility may use the title of “assisted living” in marketing materials if it complies with the minimum requirements of § 144G.

"Assisted living" means a service or package of services advertised, marketed, or otherwise described, offered, or promoted using the phrase "assisted living" either alone or in combination with other words, whether orally or in writing, and which is subject to the requirements of [§ 144G]. (Minn. Stat. § 144G.01, Subd. 1)

OTHER NAMES

Assisted Living

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

Minnesota Statutes §§ 144A.441, 144A.442, 144A.44 (Bill of Rights)

Minnesota Statutes §§ 144D

Minnesota Statutes §§ 144G (Assisted Living Requirements)

SERVICES PROVIDED

Minimum services (Minn. Stat. 144G, Sub. 2)

- Medication administration or assistance with self-administration of medication
- Assistance with at least 3 of the following activities: bathing, dressing, grooming, eating, transferring (may be with 1 person or no lift), continence care, and toileting
- Staff access to on-call registered nurse 24 hours per day
- System to check on each client at least daily (system may not mean actual contact with resident)
- Offers or provides at least the following supportive services: 2 meals per day; weekly housekeeping; weekly laundry service; reasonable assistance with arranging for transportation at the client's request; reasonable assistance with accessing community resources and social services at the client's request; and periodic opportunities for socialization

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES)

- 24/7 on-site nursing services or supervision
- Any service NOT listed above, or a service that the establishment chooses not to provide, subject to reasonable accommodations under fair housing law
- **A resident may refuse any of the services provided, but may still be required to pay a basic fee for unused services

REQUIREMENTS FOR TITLE PROTECTION:

- Facility must register as a “Housing with Services” establishment or be an individual that provides components of assisted living to a Housing with Services establishment and meets minimum statutory requirements (Minn. Stat. § 144G.02, Subd. 1 & § 144G.03, Subd. 2)
 - The following establishments can NOT use the assisted living title: single family homes, board & lodging facilities (independent housing), condominiums, and cooperatives
- Minimum Statutory Requirements (§ 144G.03, Subd. 2)
 - Provide the minimum health related services under a Class A or Class F home care license
 - Medication administration or assistance with self-administration of medication
 - Assistance with at least 3 of the following activities: bathing, dressing, grooming, eating, transferring (may be with 1 person or no lift), continence care, and toileting
 - Provide necessary assessment of the physical and cognitive needs of client by registered nurse, as required by providers home care license
 - Supervise delegation of health care activities to unlicensed assistive personnel by a registered nurse
 - Provide staff access to on-call registered nurse 24 hours per day
 - Maintain a system to check on each client at least daily (system may be “I’m OK” program or actual contact)
 - Provide means for client to request health assistance 24 hours per day, 7 days per week
 - Provide a responsible person who is awake (exception for small programs), located at the Housing with Services establishment, and capable of responding to the health requests of the client 24 hours per day, 7 days per week
 - Offer or provide at least the following supportive services: 2 meals per day; weekly housekeeping; weekly laundry service; reasonable assistance with arranging for transportation at the client’s request; reasonable assistance with accessing community resources and social services at the client’s request; and periodic opportunities for socialization; AND
 - Provide information consistent with the uniform format under § 144G. 06
- Housing with Services establishments that plan to use the phrase “assisting living” in marketing must submit a verification form along with their registration
- To meet the minimum requirements to be called “assisted living,” a Housing with Services facility must provide health related services or have an arrangement with a Class A or Class F agency to provide health related services
- Housing with Services establishments offering assisted living services in only part of its units may not use the term “assisted living” in its title or to the public (Minn. Stat. § 144G. 02, Subd. 1)

INSPECTIONS & SURVEY

Review of compliance with the assisted living requirements is incorporated in the Class A and Class F survey process, completed periodically (generally every four years).

TIP: ASSISTED LIVING INFORMATION GATHERING

- Each “Assisted Living” facility must provide prospective and current residents with a “Uniform Consumer Guide,” (fulfilling the disclosure requirements of Minn. Stat. § 144G.03, Subd. 2(9)). The Guide lists specific information about the facility, such as the type of services offered, square footage of the rooms, and type of payments received. More information about the Uniform Consumer Guide is available through the MDH at: <http://www.health.state.mn.us/divs/fpc/profinfo/cms/als/alsindex.html>.
- A new service of the Minnesota Board on Aging provides long-term care consultation about long term care options for prospective residents of Assisted Living facilities. More information is available by contacting Senior LinkAge Line at 1-800-233-3433 or at: http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=dhs16_144599

ADULT DAY SERVICES CENTER LICENSE (DHS RULE 223)

DESCRIPTION

"Adult day care" and "adult day services" mean a program operating less than 24 hours per day that provides functionally impaired adults with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care. Adult day care and adult day services do not include programs where adults gather or congregate primarily for purposes of socialization, education, supervision, caregiver respite, religious expression, exercise, or nutritious meals (Minn. Stat. § 245A.02, Subd. 2a). Services are provided in a location other than the participant's or facility operator's home (Minn. R. 9555.9600, Subp. 4).

Adult Day Services may be offered in stand-alone facilities or in units attached to nursing homes or other care facilities. Services are offered based on an individualized plan of care and continue to evolve to meet higher levels of care needs, including assistance with activities of daily living, medication administration, and specialized environments for patients to mild to severe dementia.

OTHER NAMES

Adult Day Care
Adult Day Services

DEPARTMENT OVERSIGHT

Minnesota Department of Human Services (DHS)

MAIN GOVERNING LAW

Minnesota Statutes § 245A
Minnesota Statutes § 245C
Minnesota Statutes § 626.557
Minnesota Rules 9555.9600-9555.9730

LICENSE

Requirements:

- Standards regulated:
 - Developing programming to respond to identified needs of the individual;
 - Ensuring rights of persons receiving services;
 - Identifying staff qualifications, orientation and training requirements;
 - Service expectations to ensure health and safety of persons receiving services; and
 - Policy and procedure requirements of the program.
- An identifiable unit in a nursing home, hospital, or boarding care home licensed by the commissioner of health that regularly provides day care for six or more functionally impaired adults at any given time who are not residents or patients of

the nursing home, hospital, or boarding care home must be licensed as an adult day care center or adult day services center (Minn. R. 9555.9610, Subp. 2)

- Additional required reports must be received from other state agencies or departments, counties, municipalities, or other political subdivisions prior to licensure

Fee:

Initial license application fee is \$500 (not prorated; nonrefundable)

Annual license fee - See Minn. Stat., § 245A.10

Period of Issuance:

One calendar year ending on December 31

Renewal License

Annually

FAMILY ADULT DAY SERVICES

DESCRIPTION

Family adult day services means a program operating for fewer than 24 hours per day that provides functionally impaired adults, none of which are under age 55, have serious or persistent mental illness, or have mental retardation or a related condition, with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care (Minn. Stat. § 245A.143).

Participants are served in the license holder's home.

DEPARTMENT OVERSIGHT

The [Minnesota Department of Human Services \(DHS\)](#) has delegated the licensing of family adult day services to County Social Services or Human Services Departments.

MAIN GOVERNING LAW

Minnesota Statutes § 245A.143

LICENSE

License Governing Law:

Requirements:

- Services are provided in the license holder's primary residence
- License holder is the primary provider of care
- License holder may not serve more than eight adults at one time, including any residents who are also served under an adult foster care license
- Additional reports may be required from other state agencies or departments, counties, municipalities, or other political subdivisions prior to issuance of license

Fee:

None

Period of Issuance:

Initial license is one year

Renewal License:

Two years (after first year of licensure)

BOARD AND LODGING WITH SPECIAL SERVICES REGISTRATION

DESCRIPTION

- "Boarding establishment" means a food and beverage service establishment where food or beverages, or both, are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more. (Minn. Stat. § 157.15, Subd. 4)
- "Lodging establishment" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public. (Minn. Stat. § 157.15, Subd. 8)
- "Supportive services" means the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, and arranging for medical and social services. Supportive services also include providing reminders to residents to take medications that are self-administered or providing storage for medications if requested. (Minn. Stat. § 157.17, Subd. 1(a))
- "Health supervision services" means the provision of assistance in the preparation, and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in dressing, grooming, bathing, or with walking devices. (Minn. Stat. § 157.17, Subd. 1(b)). Health supervision services may only be provided if health services are monitored by a licensed nurse (Minn. Stat. 157.17, Subd. 3).

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH), Environmental Health Services Section

Some facilities have oversight by the County Social Service Agency

To find out if the establishment is licensed and inspected by a state, county or city agency contact the Environmental Health Division of the MN Dept. of Health or consult: <http://www.health.state.mn.us/divs/eh/food/license/index.htm>

MAIN GOVERNING LAW

Minnesota Statutes §§ 157 (Board & Lodging License)

Minnesota Statutes § 157.15 (Special Services)

Minnesota Rules 4625.0100-4625.2355

Minnesota Statutes §§ 504B (Landlord Tenant Law for rental facilities)

Minnesota Statutes § 515B and 308A (Common Interest Ownership & Cooperative)

Minnesota Statutes § 363A.03 (Fair Housing laws; 24 C.F.R., Part 100)

LICENSE

Requirements:

- License for Board & Lodging - Comply with Environmental Health food, beverage, and lodging regulations
- Registration for Special Services
 - At the time of Board & Lodging licensure, boarding and lodging establishment or a lodging establishment that provides supportive services or health supervision services must be registered with the commissioner
 - Registration information
 - Name, address, and telephone number of the establishment
 - Name of the operator
 - Types of services that are being provided
 - Description of the residents being served
 - Type and qualifications of staff in the facility
 - Information that is necessary to identify the needs of the residents and the types of services that are being provided.

Fee:

- Board & Lodging License - Refer to the lodging fees listed under the MN Dept. of Health [Food, Beverage and Lodging License](#)
- Special Services Registration – No fee

Period of Issuance:

- Board & Lodging License - One year from effective date of license
- Special Services Registration – One year from effective date of registration

Renewal Period:

Annually for both License and Registration

INSPECTIONS & SURVEY

No periodic survey or evaluation process for special, health-related services

No environmental health staff to inspect health-related complaints

BOARD & LODGING LICENSE

DESCRIPTION

Housing for self-sufficient older adults or those who bring in services from outside providers. Offers little to no health care or supportive services, but may provide meal, housekeeping, group activities and transportation.

OTHER NAMES

Independent Senior Housing
Housing for Active Adults

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH), Environmental Health Services Section (Board & Lodging License)

MAIN GOVERNING LAW

Minnesota Statutes §§ 157 (Board & Lodging License)
Minnesota Statutes §§ 504B (Landlord Tenant Law for rental facilities)
Minnesota Statutes §§ 515B and 308A (Common Interest Ownership & Cooperative)
Minnesota Statutes § 363A.03 (Fair Housing laws; 24 C.F.R., Part 100)

SERVICES PROVIDED

- Services may include meals, housekeeping, group activities, and transportation

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES)

- Generally not health care services
- Generally not supportive services, such as laundry assistance
- Management does not arrange for services for the resident (however the resident can arrange for his or her own services)

LICENSE

License Governing Law:

Minnesota Statutes §§ 157 (Board & Lodging License)

Requirements:

- License for Board & Lodging - Comply with Environmental Health food, beverage, and lodging regulations

Fee:

- Board & Lodging License - Refer to the lodging fees listed under the MN Dept. of Health Food, Beverage and Lodging License

Period of Issuance:

- Board & Lodging License - One year from effective date of license

Renewal Period:

Annually for Board & Lodging

HOME MANAGEMENT REGISTRATION

DESCRIPTION

- “Home management services” include at least two of the following services: housekeeping, meal preparation, and shopping when delivered in a place or residence to a person whose illness, disability, or physical condition creates a need for the service (Minn. Stat. § 144A.43, Subd. 3).
- Organizations or individuals that provide ONLY home management tasks need not obtain additional licensure to operate.
- Organizations or individuals that provide Home Care or Home Health services in addition to Home Management services must obtain the appropriate licensure, but need not obtain a Home Management registration.

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

Minnesota Statutes § 144A.43 (Definition of Home Care Service & Home Management)

Minnesota Statute § 144A.461 (Registration Requirement)

Minnesota Rules 4668.0120

SERVICES PROVIDED

At least two of the following: housekeeping, meal preparation, and shopping

SERVICES NOT PROVIDED (BUT PERSON MAY BRING IN THEIR OWN SERVICES)

No health care

No personal care

REGISTRATION

Fee:

Individuals - \$20

Organizations - \$50

Period of Issuance:

Effective date of initial license for one year

Renewal Registration:

Annually

HOSPICE

DESCRIPTION

"Hospice provider" means an individual, organization, association, corporation, unit of government, or other entity that is regularly engaged in the delivery, directly or by contractual arrangement, of hospice services for a fee to terminally ill hospice patients. A hospice must provide all core services (Minn. Stat § 144A.75, Subd. 5).

OTHER NAMES

Class D (old terminology)

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes § 144A.43 (Home Care Services)

Minnesota Statutes § 144A.75 (Definition)

Minnesota Statutes § 144A.751 (Hospice Bill of Rights)

Minnesota Rules 4668 (Home Care)

Minnesota Rules 4664 (Hospice)

LICENSE

Fee:

- Hospice fees are based on revenues for the previous fiscal year.

Period of Issuance:

Effective date of initial license for one year

Renewal License:

Annually

HOSPITALS

DESCRIPTION

"Hospital" means any acute care institution licensed pursuant to sections 144.50 to 144.58. The term does not include any health care institution conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any church or denomination. (Minn. Stat § 144.696, Subd. 3)

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes §§ 144

Minnesota Statute §§ 144.50-144.58

The state of Minnesota has adopted the Medicare Hospital Conditions of Participation as the state licensing standard

LICENSE

Requirements:

- To license a new hospital, a moratorium exception under Minn. Stat. § 144.551 must be met
- A hospital must be primarily engaged in providing, by or under the supervision of a physician, inpatient diagnostic and therapeutic services or rehabilitation services
- A hospital must operate & provide services in compliance with all applicable federal, state and local laws, regulations & codes.

Fee:

- Hospitals accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) pay \$7,055
- Non-accredited hospitals pay \$4,680 plus \$234 per bed or bassinets
- All hospitals pay a \$500 base fee plus \$13 per bed or bassinets for the Minnesota Adverse Health Care Events Reporting Act
- All hospitals pay a \$11,000 base fee plus \$13 per bed or bassinets for the statewide Trauma System

Period of Issuance:

Effective date of initial license through December 31

Renewal License:

Annually for one calendar year

SWING BED - HOSPITAL

DESCRIPTION

"[S]wing bed" means a hospital bed licensed under Minnesota statutes, sections 144.50 to 144.56 that has been granted a license condition under this section and which has been certified to participate in the federal Medicare program under 42 U.S.C. § 1395 (tt).

A "swing bed" facility is used by hospitals mostly in rural areas to provide transitional care and subacute inpatient care. The facility must first be licensed as a hospital, be certified to participate in the federal Medicare program, and have less than 50-65 hospital beds to receive a License Condition for swing beds.

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes §§ 144.50-144.56

Minnesota Statutes § 144.562

LICENSE CONDITION

License Governing Law:

Minn. Stat. § 144.562

Requirements:

- Hospital bed is licensed under sections § 144.50-144.56 (§ 144.562, Subd. 1)
- Certified to participate in the federal Medicare program under 42 U.S.C. 1395 (tt) (§ 144.562, Subd. 1)
- Hospital has a licensed bed capacity of less than 50-65 beds, depending on the availability of nursing homes in the area (§ 144.562, Sub. 2(a)(1))
- Hospital is located in a rural area as defined in federal Medicare regulations 42 CFR 482.66 (§ 144.562, Sub. 2(a)(2))
- Hospital must agree to the following (§ 144.562, Subd. 3(c))
 - Limit patient length of stay to 40 days, unless emergency situation
 - Patient has been hospitalized and not yet discharged from the facility or patient transferred directly from an acute care hospital
 - Report numbers of beds, admissions, discharges, and other information to MDH annually

Period of Issuance:

License condition valid for the hospital's licensure year

Renewal License:

Renewed at the time hospital license is renewed

FACILITY REPORTING

The hospital must report hospital charges, description of care, and the number of beds used for transitional care to MDH by December 1.

MISCELLANEOUS CARE OPTIONS

SUPPLEMENTAL NURSING SERVICES AGENCY REGISTRATION

DESCRIPTION

"Supplemental nursing services agency" means a person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health care facilities for nurses, nursing assistants, nurse aides, and orderlies. Supplemental nursing services agency does not include an individual who only engages in providing the individual's services on a temporary basis to health care facilities. Supplemental nursing services agency does not include a professional home care agency licensed as a Class A provider under section [144A.46](#) and rules adopted thereunder that only provides staff to other home care providers. (Minn. Stat. § 144A.70, Subd. 6)

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes § 144.057

Minnesota Statutes §§ 144A.70-144A.74

REGISTRATION

Fee:

Annual registration fee - \$891

Period of Issuance:

Effective date of initial licensure for one year

Renewal Registration:

Annually

MOBILE HEALTH EVALUATION AND SCREENING PROVIDER

DESCRIPTION

"Mobile health evaluation and screening provider" means any provider who is transported in a vehicle mounted unit, either motorized or trailored, and readily movable without disassembling, and who regularly provides evaluation and screening services in more than one geographic location. A Mobile health evaluation and screening provider does not include any ambulance medical transportation type services or any mobile health service provider affiliated, owned and operated, or under contract with a licensed health care facility or provider, managed care entity licensed under chapter 62D or 62N or Minnesota licensed physician or dentist. Nor does it include fixed location providers who transfer or move during the calendar year. All mobile health evaluation and screening providers must be directly supervised by a physician licensed under chapter 147 (Minn. Stat § 144.077, Subd.1).

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statutes § 144.077

SERVICES PROVIDED

Mobile Health Evaluation

REGISTRATION

Registration Governing Law

Minn. Stat. § 144.077

Requirements:

Comply with all licensing reporting and certification, sanitation, and other requirements and regulations that apply to a health care provider supplying similar services as a fixed location provider. (Minn. Stat. § 144.077, Subd. 2)

Fee:

None

Period of Issuance:

Registration form due by January 15th each year

Renewal Registration:

Annually

FREESTANDING OUTPATIENT SURGICAL CENTERS

DESCRIPTION

"Outpatient surgical center" or "center," means a freestanding facility organized for the specific purpose of providing elective outpatient surgery for preexamined, prediagnosed, low-risk residents. Admissions shall be limited to procedures which utilize local or general anesthesia and which do not require overnight inpatient care. It is not organized to provide regular emergency medical services and does not include the physician's and dentist's office or clinic for the practice of medicine or the delivery of primary care. (Minn. R. 4675.0100, Subp. 8)

OTHER NAMES

Medicare Certified Ambulatory Surgical Center

DEPARTMENT OVERSIGHT

Minnesota Department of Health (MDH)

MAIN GOVERNING LAW

Minnesota Statute § 144.56

Minnesota Rules 4675

LICENSE

Requirements:

- Admissions are limited to procedures which utilize local or general anesthesia and which do not require overnight inpatient care

Fee:

- License fee is \$1,512
- Adverse Health Care Events Reporting Act Fee is \$1,837

Period of Issuance:

Effective date of initial license through December 31st

Renewal License:

Annually on a calendar year basis

VACCINATION VENDOR

DESCRIPTION

The MDH offers a certificate program for entities providing flu vaccinations at off-site locations. A clinic that has a “Mark of Excellence” certificate means that the clinic has participated in a quality assurance program based on best practices standards to provide flu shots, outside of the regular clinic setting. Each clinic participates in a classroom training session, followed by a review of individual agency immunization practices after they received their flu vaccine.

Senior community centers employ the services of a vaccination vendor to administer flu shots.

SENIOR HOME COMPANION

DESCRIPTION

Provide services to low-income persons aged 60 or over, including person-to-person assistance in health, education, welfare, and related fields. The program is primarily for adults with disabilities and elderly people living in their own homes (Minn. Stat. § 256.977).

The companion may be compensated for a maximum of 20 hours per week.

DEPARTMENT OVERSIGHT

Board of Aging

MAIN GOVERNING LAW

Minnesota Statutes § 256.977

Minnesota Rules 9555.0100-9555.1600

REQUIREMENTS TO BE ELIGIBLE FOR A COMPANION

- Be age 60 or older
- Low income

MEDICARE SPECIAL FACILITIES

DESCRIPTION

In order to secure Medicare funding, certain specialized services must meet conditions of coverage as described in 42 C.F.R. 486.1.

TYPES OF LICENSURE

COMMUNITY MENTAL HEALTH CENTER – A provider of core mental health services including outpatient services such as: (1) specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and residents of the Center's mental health service area who have been discharged from inpatient treatment at a mental health facility; (2) 24 hour-a-day emergency care services; (3) day treatment, or other partial hospitalization services, or psychosocial rehabilitation services; (4) and screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission.

COMPREHENSIVE OUT PATIENT REHABILITATIONS – A facility that provides a variety of rehabilitative services including physical therapy, social or psychological services; outpatient rehabilitation; and the services of a doctor.

END STAGE RENAL DIALYSIS – A treatment program provided two or three times a week that removes wastes from the blood that the kidneys are unable to move.

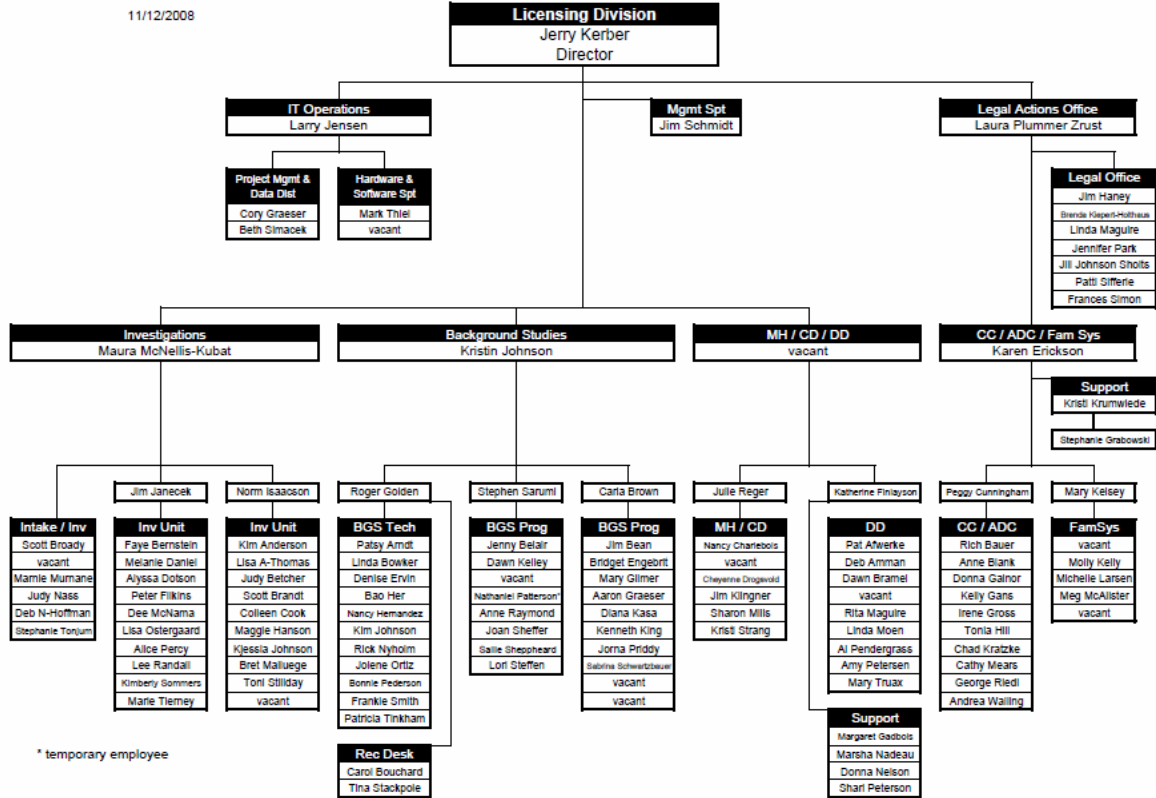
FEDERALLY QUALIFIED HEALTH CENTER (FQHC) – An outpatient facility similar to a Rural Health Clinic, but including services for urban areas. FQHCs are facilities such as community health centers, public housing centers, outpatient health programs funded by the Indian Health Service, and programs serving migrant workers and the homeless. One of the main purposes of FQHCs is to serve urban and rural areas that are currently underserved. For more information, see a CMS fact sheet at: <http://www.cms.hhs.gov/MLNProducts/downloads/fqhcfactsheet.pdf>.

PORTABLE X-RAY– Gives diagnostic x-ray tests in a nursing home that does not provide x-ray services for its patients directly, but arranges services with a provider. Portable x-ray providers may need a health care license.

REHABILITATION AGENCY – An agency that provides an integrated, multidisciplinary program designed to upgrade the physical functions of handicapped, disabled individuals by bringing together, as a team, specialized rehabilitation personnel. At a minimum, a rehabilitation agency must provide physical therapy or speech language pathology services and a rehabilitation program which, in addition to physical therapy or speech language pathology services, includes social or vocational adjustment services.

RURAL HEALTH CLINIC – An outpatient facility that is primarily engaged in furnishing health care services and that meets other requirements for the health and safety of individuals served by the clinic. "Rural" means that the clinic is located in a medically underserved area and is not urbanized (42 C.F.R. 491.1).

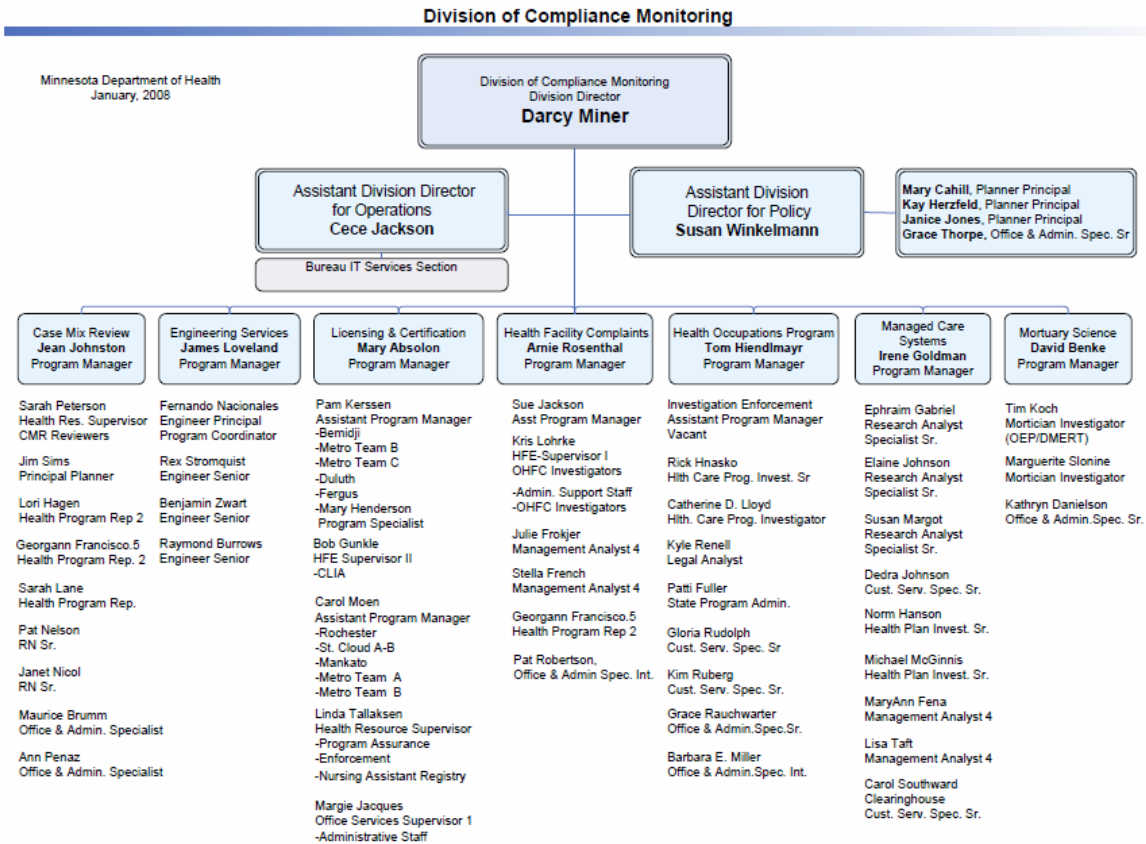
APPENDIX A – DHS Licensing Division Organizational Chart



Pearson, Randall, Schumacher & LaBore, P.A.



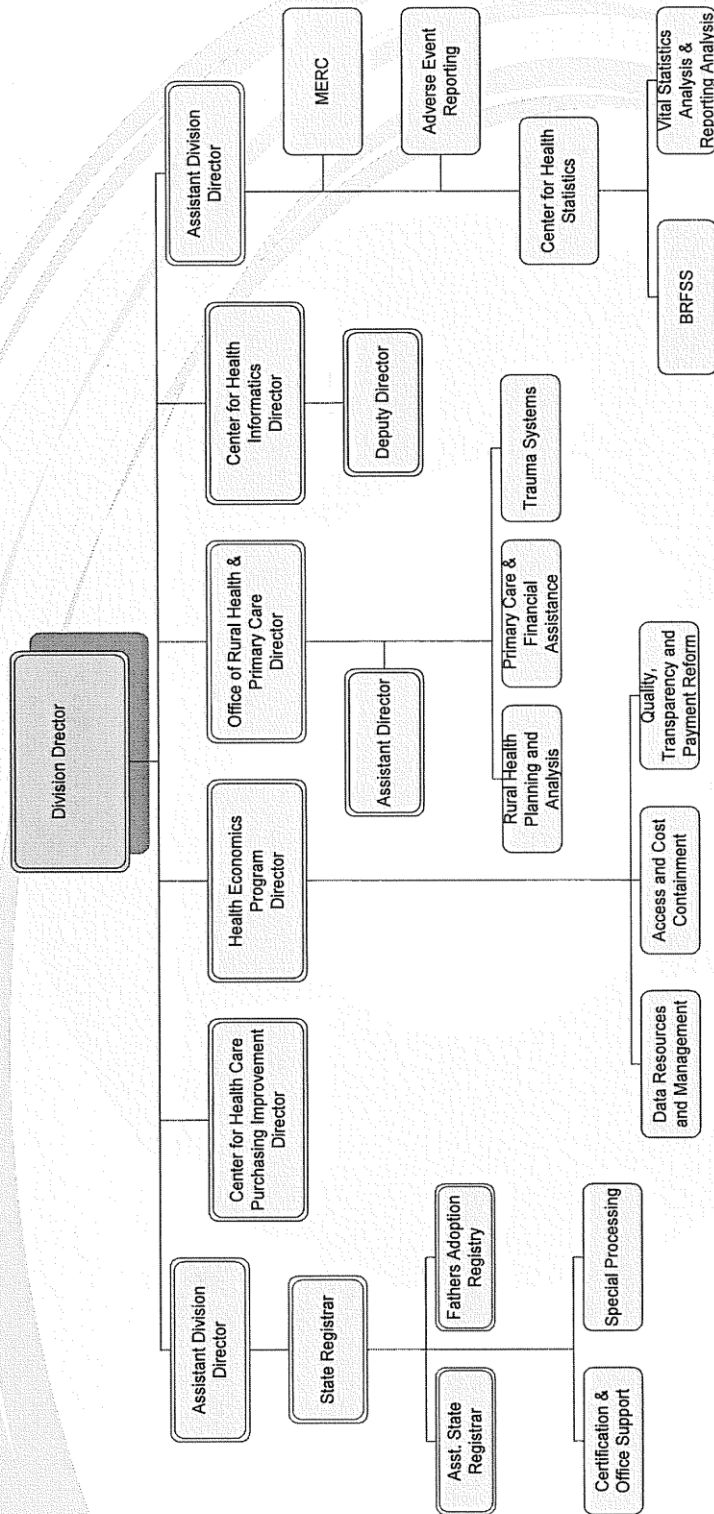
APPENDIX C – MDH Division Of Compliance Monitoring Organizational Chart



APPENDIX D – MDH Division Of Health Policy Organizational Chart

Division of Health Policy

Organizational Chart

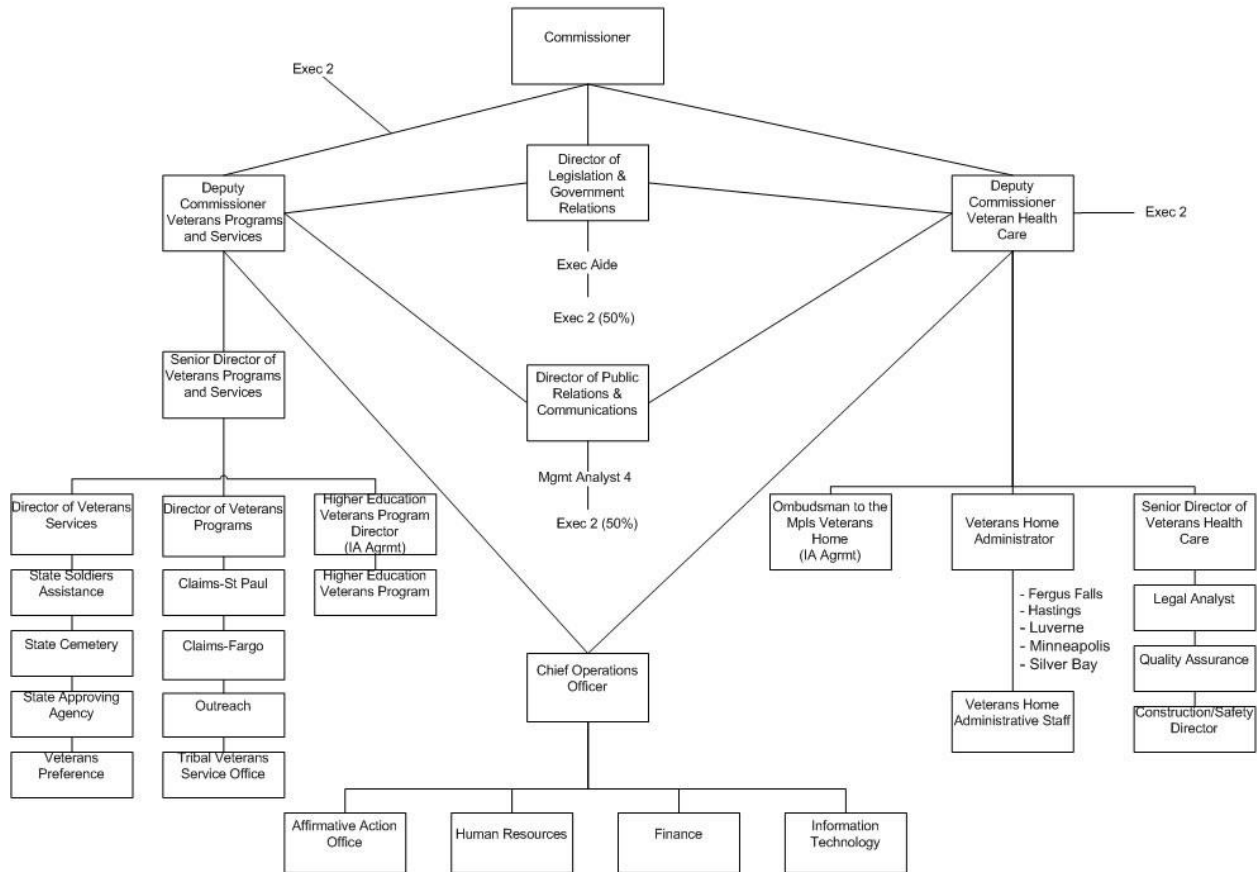


January 22, 2009

APPENDIX E – MN Department Of Veterans Affairs Organizational Chart



Minnesota Department of Veterans Affairs



5/19/2008

APPENDIX F – Good Resources

- Federal Government
 - Centers for Medicare and Medicaid Services - <http://www.cms.hhs.gov/>
 - Medicare - <http://www.medicare.gov/>
 - “Nursing Home Compare” - <http://www.medicare.gov/NHCompare> (provides comprehensive data on each nursing home; operated by the federal government)
 - Eldercare Locator (helps find local agencies to assist in getting services) - <http://www.eldercare.gov/Eldercare.NET/Public/Home.aspx>
 - National Clearinghouse for Long Term Care - http://www.longtermcare.gov/LTC/Main_Site/index.aspx (provides comprehensive information to consumers about planning for long term care)
- State Government
 - Minnesota Department of Health – www.health.state.mn.us
 - Minnesota Department of Health Compliance Monitoring Division website for a directory of MDH licensed and registered facilities - www.health.state.mn.us/divs/fpc/directory/fpcdir.html (i.e. nursing home, housing with services establishments, home care provider licenses)
 - “Nursing Home Selection”- <http://www.health.state.mn.us/nhreportcard/> (searches for nursing homes based on the criteria most important to consumer; website co-sponsored by Minnesota’s DHS and MDH departments)
 - Minnesota Department of Human Services – www.dhs.state.mn.us
 - Minnesota Department of Human Services Licensing Lookup for a directory of DHS licensed facilities - <http://licensinglookup.dhs.state.mn.us/> (i.e. Adult Foster Care, Adult Day Services, Residential Homes)
 - Minnesota Help Info Line (featuring the Long-Term Care Choices Navigator & other resources; sponsored by DHS & MN Board on Aging) – <http://www.minnesotahelp.info/public/>
 - Long Term Care choices - <http://longtermcarechoices.minnesotahelp.info/> (guides user through a process of selecting a long term care option based on various factors)
 - Minnesota Board on Aging (Advocate, Advisor, Administrator; including Ombudsman) - <http://www.mnaging.org/>
 - Metropolitan Area Agency on Aging - <http://www.tcaging.org/index.html>;
 - Senior LinkAge Line (Finding community services) – <http://www.tcaging.org/findinghelp/sll.html>; 1-800-333-2433
 - Minnesota Attorney General
 - Landlord & tenant rights for Rental Housing - <http://www.ag.state.mn.us/Consumer/housing/lt/default.asp>
 - Various Senior topics - <http://www.ag.state.mn.us/Consumer/Seniors/Default.asp>
 - Legal Aid offices
 - www.lawhelpmn.org

- Other (Non-Profits; For-Profits; Advocacy)
 - AARP of Minnesota - <http://www.aarp.org/states/mn/>; 1-866-554-5381
 - Aging Services of Minnesota (formerly MN Health & Housing Alliance; consumer information & guides) - <http://www.mhha.com/>; 651.645.4545
 - Alzheimer's Association (Voluntary organization in Alzheimer care, support and research; Care Finder) <http://www.alz.org/mnnd/>; 1-800-272-3900
 - American Association of Homes and Services for the Aging (Creating the future of aging services) - <http://www.aahsa.org/>
 - Assisted Living Federation of America (Public policy and information) - <http://www.longtermcareliving.com/>
 - CaregiverMN (DARTS; Information for caregivers) - <http://www.caregivermn.org/HomePage.asp>; 651-455-1560
 - Care Options Network (Over 1,000 provider listings) - <http://www.careoptionsnetwork.org/>; 952-945-4065
 - Care Providers of MN (Empowering members to excellence) - <http://www.careproviders.org/>; 952-854-2844
 - Centers for Elder Justice & Policy (Advocacy and research affiliated with William Mitchell College of Law) - <http://www.wmitchell.edu/CEJP/elderjustice/>
 - Community Health Accreditation Program (CHAP) (Medicare accreditation program for home health care agencies and other providers) - <http://www.chapinc.org/>
 - Elderberry Institute (Living at Home/Block Nurse Programs) - <http://www.elderberry.org/>
 - Elder Care Partners (Caregiver and Care Management Services) - <http://www.eldercarepartners.org/>; 651-234-2262
 - Elder Care Rights Alliance (Quality of care; Quality of life; Freedom to Choose for Minnesota Elders)- <http://www.eldercarerights.org/>
 - Hospice Minnesota (Care for the dying) - <http://www.hospicemn.org/>; 651-659-0423
 - Joint Commission (JCAHO) (Medicare accreditation programs for health care providers, such as home health care agencies) - <http://www.jointcommission.org/>
 - Long Term Care Living (Consumer information on providers) - <http://www.longtermcareliving.com/>
 - Minnesota Adult Day Services Association (promote and support adult day centers) - <http://www.madsa.org/>; 763-464-2698
 - Minnesota Health Scores - <http://www.mnhealthscores.org/?p=home> (allows a search based on medical condition)
 - Minnesota Home Care Association (Support, Education, Advocacy) - <http://www.mnhomecare.org/>
 - Minnesota Senior Federation (Grassroots organization for seniors in Minnesota) - <http://www.mnseniors.org/>
 - National Citizens' Coalition for Nursing Home Reform (national consumer voice for quality long-term care) - <http://www.nccnhr.org/>
 - Volunteers of America - <http://www.voamn.org/Services/ServicesfortheProfessional/CareOptions/tabid/3356/Default.aspx>
 - Vulnerable Adults Justice Project (Stakeholders group involved in public awareness and legislative reform) - <http://mnvac.pbwiki.com/FrontPage>
 - Wilder Foundation – Successful Aging - <http://www.wilder.org/53.0.html>; 651-280-2000

APPENDIX G - Minnesota Department Contacts

Minnesota Department of Health (MDH)

Licensing & Certification Program

Compliance Monitoring Division

[Minnesota Department of Health \(MDH\)](#)

85 East 7th Place

P.O. Box 64900

St. Paul, MN 55164-0900

(651) 201-4101

web: [Minnesota Health Care Facilities Programs](#)

Minnesota Department of Human Services (DHS)

Division of Licensing

[Minnesota Department of Human Services \(DHS\)](#)

P.O. Box 64242

St. Paul, MN 55164-0242

(651) 296-3971

(651) 297-1490 (fax)

(800) 627-3529 (TTY/TDD)

web: [Licensing](#)

Minnesota Department of Health, Environmental Health Services Section

Environmental Health Services Section

Environmental Health Division

[Minnesota Department of Health \(MDH\)](#)

625 Robert St. N

PO Box 64975

St. Paul, MN 55164-0975

(651) 201-5000

web: [Environmental Health](#)

Minnesota Board of Examiners of Nursing Home Administrators

Randy Snyder

Executive Director

[Minnesota Board of Examiners for Nursing Home Administrators](#)

2829 University Ave. S.E., Suite 440

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