

08 - 0078

# **Injunctive Relief Actions in Housing with Services Establishments**

*Report to the Minnesota Legislature 2007*

---

**Minnesota Department of Health**

**December 2007**



Commissioner's Office  
625 Robert Street N  
P.O. Box 64975  
St. Paul, MN 55164-0975  
(651) 201-5000  
[www.health.state.mn.us](http://www.health.state.mn.us)

# Injunctive Relief Actions in Housing with Services Establishments

December 2007

**For more information, contact:  
Compliance Monitoring Division  
Case Mix Review Program  
Minnesota Department of Health  
P.O. Box 64938  
St. Paul, MN 55164-0938**

**Phone: (651) 201-4301**

**Fax: (651) 215-9691**

As requested by Minnesota Statute 3.197: This report cost approximately \$250 to prepare, including staff time, printing and mailing expenses.

Upon request, this material will be made available in an alternative format such as large print, Braille or cassette tape. Printed on recycled paper.

## Introduction

Minnesota Laws 2007, Chapter 147, Article 9, section 35, requires the Minnesota Department of Health (MDH) to report to the Legislature about injunctive relief actions and the cost to fund these activities.

Minnesota Laws 2007, Chapter 147, Article 9, section 35 states:

### **“INJUNCTIVE RELIEF REPORT.**

The commissioner of health shall present to the 2008 legislature, by December 15, 2008, recommendations to fund the cost of bring actions for injunctive relief, under Minnesota Statutes, section 144G.02, subdivision 2, paragraph (b).”

## Background

There are approximately 1,260 entities registered as “housing with services” in Minnesota. The registration requirements are contained in Minnesota Statutes Chapter 144D and detail the Minnesota Department of Health’s (MDH) responsibilities in this area. Over the past 5 years the number of “housing with services” registered with MDH has grown at an average rate of 150 per year.

There are approximately 870 housing with services establishments that have verified that they will be following the provisions in the assisted living statutes, Chapter 144G. The enforcement mechanism provide for in the legislation is that MDH may seek injunctive relief in District Court. MDH established a process to determine if housing with service establishments have complied with the legislative requirements. MDH and the trade associations representing housing with services establishments provide joint education concerning the implementation of the legislative requirements.

Minnesota Statutes 144D, subdivision 1a, states:

**Surcharge for injunctive relief actions.** The commissioner shall assess each housing with services establishment that offers or provides assisted living under chapter 144G a surcharge on the annual registration fee paid under subdivision 1, to pay for the commissioner's costs related to bringing actions for injunctive relief under section 144G.02, subdivision 2, paragraph (b), on or after July 1, 2007. The commissioner shall assess surcharges using a sliding scale under which the surcharge amount increases with the client capacity of an establishment. The commissioner shall adjust the surcharge as necessary to recover the projected costs of bringing actions for injunctive relief. The commissioner shall adjust the surcharge in accordance with section 16A.1285.

MDH has established a system to identify providers who are representing themselves as “assisted living” entities through advertising, signage, self description, website, promotional materials, etc. When a provider is identified, a verification of their registration occurs to see if they identified themselves as “assisted living” in the registration process. If they have not, the owner, provider or manager is called and the concern is identified and education is given on compliance with Minnesota Statutes Chapter 144G. a warning letter is also sent concerning the non-compliance with an attestation page to be completed and returned to MDH on how and the time frame for coming into compliance. Random follow ups are conducted to verify if compliance has been achieved. If not, MDH will refer the entity to the Office of Attorney General for injunctive relief action.

The provisions of Minnesota Statute Chapter 144G were effective January 1, 2007. Since that time MDH has identified four providers who were not in compliance with Minnesota Statutes Chapter 144G

and a letter of warning was sent to each provider. To date MDH has not needed to refer any non-compliance issues to Minnesota's Office of Attorney General for injunctive relief action.