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Study and Report about Client Bills of Rights

Minnesota Department of Health
Report to the Minnesota Legislature 2015

February 2015

Study and Report about Client Bills of Rights

February 15, 2015

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I. Executive Summary

A. Introduction

Laws 2014, Chapter 312, Article 23, Section 12 (hereinafter referred to as “Section 12”) directed the Minnesota Department of Health (MDH) in consultation with the Minnesota Department of Human Services (DHS) and other key stakeholders to evaluate and determine how to streamline the requirements related to the clients’ rights while maintaining the protection of health and safety of clients.

“Sec. 12. STUDY AND REPORT ABOUT CLIENT BILLS OF RIGHTS.

The commissioner of health shall consult with Aging Services of Minnesota, Care Providers of Minnesota, Minnesota Home Care Association, the commissioner of human services, the Office of the Ombudsman for Long-Term Care, and other stakeholders to evaluate and determine how to streamline the requirements related to the clients' rights in Minnesota Statutes, sections 144A.44, 144A.441, and 245D.04, for applicable providers, while assuring and maintaining the health and safety of clients. The evaluation must consider the federal client bill of rights requirements for Medicare-certified home care providers. The evaluation must determine if there are duplications or conflicts of client rights, evaluate how to reduce the complexity of the requirements related to clients' rights for providers and consumers, determine which rights must be included in a consolidated client bill of rights document, and develop options to inform consumers of their rights. The commissioner shall report to the chairs and ranking minority members of the health and human services committees of the legislature no later than February 15, 2015, and include any recommendations for legislative changes.”

Section 12 specifically requires MDH to propose recommendations for how to reduce the complexity of the client bills of rights requirements, determine which rights must be included in the unified bill of rights document and recommend options for consumers to be informed about their rights aside from having every right listed in documents. This proposed unified bill of rights (and this report) is **specific to providers licensed by MDH under Minnesota Statutes, sections 144A.43 to 144A.484 as well as those that have the Home and Community Based Services (HCBS)-designation (Integrated License) in addition to their home care license.**

This report, while legislatively mandated, garners support from a wide range of stakeholders including licensed providers, individuals (clients) receiving services, the Office of the Ombudsman, MDH, and DHS. Stakeholders have agreed that the multiple bills of rights that exist for individuals receiving home care or HCBS services diminishes the clarity and effectiveness of the intent of such documents. These documents are intended to be easily understood and accepted, universal rights of a client receiving services; they have become another paperwork requirement, with much of the intent to protect clients muddled and lost.

B. Recommendations

- Propose a unified bill of rights for individuals receiving MDH-licensed home care and or services under the HCBS-designation that advises consumers about their rights using clear and plain language resulting in the reduction of unnecessary and complex paperwork requirements.
- Require MDH-licensed providers who offer home care, with or without the HCBS-designation, to use a single unified bill of rights that is meshed from the existing consumer rights already in Minnesota Statutes, sections 144A.44, 144A.441, 144A.442 and 245D.04.
- Protect existing statutory consumer rights listed in Minnesota Statutes, sections 144A.43-144A.484 and 245D.04, 245D.06, 245D.061, and 245D.07 and remove unnecessary, redundant language.
- Continue the ongoing interagency integration efforts by requiring a further evaluation of the existing bills of rights required for other settings regulated by MDH and DHS and take into consideration any federal requirements. This would require MDH to complete and submit a similar study and report that will be submitted to the legislature no later than February 15, 2016 to finish the work to unify the bill of rights across other settings and services licensed by MDH.

II. Background

A. Multiple Bills of Rights

Currently, there are ten bills of rights for the various providers licensed by MDH (i.e., nursing homes, hospitals, hospice, outpatient surgical centers and home care). For MDH-licensed home care providers, there are five different bills of rights to navigate among and distribute to individuals receiving services. Deciding which document applies and should be provided depends on where the services are received and whether or not the provider is a federally certified home health agency.

This particular evaluation and report is specifically looking at the multiple bills of rights provided to individuals receiving home care services from a MDH-licensed home care provider as well as the rights intended for individuals receiving HCBS services through the HCBS-designation.

Even though there are a variety of documents that have been created separately that intend to protect individual rights, there are generally similar, if not identical, protections in place across these different documents. In some areas, however, there may be differing language (some of which does not alter the overall intent of the identified right). In others, there may be different protections altogether. The result of many versions of what sound like the same document is

causing confusion among individuals receiving services as to what their rights are and what protections are in place, confusion for the providers required to provide and protect the rights of the individuals they are serving, and a misunderstanding in the general public regarding what rights individuals have.

B. Integrated Licensing

In the 2014 legislative session, the legislature directed MDH and DHS to implement Integrated Licensing for home care and HCBS providers beginning July 1, 2015. Integrated Licensing allows MDH-licensed home care providers who also provide HCBS services (which is reimbursed by DHS under Medicaid waivers) to get a designation on their license to provide HCBS, instead of obtaining a separate (second) license from DHS. MDH will then enforce the HCBS standards for those MDH-licensed home care providers with the designation.

The HCBS services that require licensure include Basic and Intensive supports services. Basic support services are providing assistance and supervision and include respite, personal supports, night supervision, and 24 hour emergency assistance services. Intensive support services are providing training, habilitation or rehabilitation along with assistance and supervision and include intervention support, in home support, day services, employment services and residential support services. The licensure standards under 245D are a combination of licensing standards and Medicaid payment standards.

Home care providers have been licensed by MDH since the 1990's. Home care providers can provide a range of health care and health-related services to individuals of any age and can range from complex health care services to providing assistance with activities of daily living such as bathing, toileting, etc. Home care providers may receive payment for these services through private pay, health insurance, long-term care insurance, Medicaid or Medicare. While many home care providers choose not to provide both home care and HCBS services now licensed under 245D, a small subset of providers do choose to provide a broader set of services to their clients

While the services provided are not the same, many of the regulatory requirements in chapters 245D and 144A are similar. Under the Integrated Licensing System model a home care provider licensed under Chapter 144A that chooses to provide one or more of the Basic support services that require licensure under Chapter 245D may obtain the Integrated License-HCBS Designation. The designation will allow them to provide the Basic support services and identifies the requirements of Chapter 245D that they will need to comply with in addition to compliance with the home care licensing regulations.

Home care providers with the HCBS-designation must comply with Minnesota Statutes, sections 245D.04, 245D.06, 245D.061, and 245D.07. Minnesota Statutes, section 245D.04 identifies “Service Recipient Rights” and breaks them down into three categories: (1) license holder responsibilities, (2) service-related rights, and (3) protection-related rights. This section in 245D, along with several others, will be enforced by MDH when an MDH-licensed home care provider obtains the 245D integrated license designation.

With the development of integrated licensing and in light of the fact that there are overlapping and redundant areas within the regulatory requirements of 245D and 144A, including those protections identified in the various bills of rights, an evaluation of these duplications and, perhaps conflicts, is vital for this to be regulated appropriately.

C. Stakeholder Input

Section 12 directed MDH to consult with the various provider associations, DHS, the Office of the Ombudsman for Long-Term Care, and other stakeholders in preparation of this report. Staff from MDH met with each of these groups and there was universal agreement that a unified bill of rights would be beneficial. More specifically, it was widely agreed that reducing the number of versions will make it easier for clients to understand what rights they have that are protected in the bill of rights document. Also, establishing licensure requirements that are clear for both providers and consumers leads to improved compliance by providers and results in better outcomes for consumers of those services.

Timeline of Communication between MDH and various Stakeholders:

- Discussions about the streamlining of client bills of rights began during the process that ultimately led to the regulatory and legislative changes to the home care statutes that were passed in the 2013 legislative session.
- Further communication regarding the potential streamlining of client bills of rights for individuals receiving home care services resurfaced in March 2014.
- This led to language proposed in the Supplemental Budget Bill and ultimately passed in the 2014 legislative session – Section 12.
- Meetings were held by MDH that included a review of the proposed direction for this report/evaluation:
 - With DHS on September 26, 2014
 - With members from LeadingAge MN, Care Providers of Minnesota, and the Minnesota Home Care Association on October 24, 2014
 - With staff from the Office of the Ombudsman for Long-Term Care on October 28, 2014

- On December 10, 2014, the first draft of the proposed language for the Unified Home Care Bill of Rights was emailed to the stakeholder group which included DHS, the Office of the Ombudsman for Long-Term Care, LeadingAge MN, Care Providers of Minnesota, and the Minnesota Home Care Association.
 - Feedback was received from the Office of the Ombudsman for Long-Term Care on December 16, 2014.
 - Additional feedback was received on December 17, 2014.
 - Feedback was received from LeadingAge MN, Care Providers of Minnesota, and the Minnesota Home Care Association on December 17, 2014.
 - Additional feedback was received on December 22, 2014.
 - On December 23, 2014, MDH acknowledged receipt of all feedback and indicated that the suggestions and feedback would be reviewed and incorporated into the next draft.
- On January 5, 2015, the second draft of the proposed language for the Unified Home Care Bill of Rights was emailed to the stakeholder group which included DHS, the Office of the Ombudsman for Long-Term Care, LeadingAge MN, Care Providers of Minnesota, and the Minnesota Home Care Association.
 - Feedback was received from LeadingAge MN, Care Providers of Minnesota, and the Minnesota Home Care Association on January 7, 2015.
 - Additional feedback was received on January 20, 2015.
 - Feedback was received from the Office of the Ombudsman for Long-Term Care on January 12, 2015.
 - Additional feedback was received on January 14, 2015.
- On January 20, 2015, the third draft of the proposed language for the Unified Home Care Bill of Rights was emailed to the stakeholder group which included DHS, the Office of the Ombudsman for Long-Term Care, LeadingAge MN, Care Providers of Minnesota, and the Minnesota Home Care Association.
 - Feedback was received from LeadingAge MN, Care Providers of Minnesota, and the Minnesota Home Care Association on January 22, 2015.
 - Additional feedback was received on January 26, 2015.
 - Feedback was received from the Office of the Ombudsman for Long-Term Care on January 23, 2015.
- On February 4, 2015, the final draft (the language that is included in this report) of the proposed language for the Unified Home Care Bill of Rights was emailed to the stakeholder group which included DHS, the Office of the Ombudsman for Long-Term Care, LeadingAge MN, Care Providers of Minnesota, and the Minnesota Home Care Association.

III. Evaluation and Recommendations

Based on the direction provided in Section 12 and the feedback from the stakeholder groups, staff from MDH began comparing and evaluating the bills of rights identified for this report.

Bills of rights included in the evaluation:

- Home Care Bill of Rights (Minnesota Statutes, section 144A.44)
- Home Care Bill of Rights for Assisted Living Establishments (Minnesota Statutes, sections 144A.44, 144A.441, and 144A.442)
- Federal and State Combined Home Care Bill of Rights (Minnesota Statutes, section 144A.44 with additional federal language added) – for Medicare-certified providers
- Federal and State Combined Home Care Bill of Rights for Assisted Living Establishments (Minnesota Statutes, sections 144A.44, 144A.441, and 144A.442 with additional federal language added) – for Medicare-certified providers in Assisted Living establishments
- Service Recipient Rights (Minnesota Statutes, section 245D.04)

The initial phase of the evaluation consisted of identifying the rights within Minnesota Statutes, sections 144A.43 to 144A.484 that are currently regulated. We then compared the revised 2013 statutes against the multiple bills of rights that were in existence, removed those items that are duplicated in statute and added those rights that were not in statute. The revised and unified bill of rights identifies and clarifies those rights that are not otherwise covered in statute. The net result of these revisions to the statutes and the bill of rights is increased protection for clients and increased responsibility and accountability of the licensed provider. [See Table 1](#) for the specific rights and statutes.

The next phase of the evaluation consisted of identifying similarities between the different versions, specifically between the rights listed in Minnesota Statutes, sections 144A.44, 144A.441, 144A.442 and 245D.04. Across the different bills of rights there are several rights that are similar, if not the exact same. It is recommended to consolidate those rights that are similar across the bill of rights documents and mesh them together while ensuring protections are maintained in the process. [See Table 2](#) for the specific rights and statutes.

The recommendations put forth in this report and proposed in the Unified Home Care Bill of Rights have been shared with the various stakeholders throughout the process. The input and

collaborative spirit has been remarkable. During this last phase of the process, comments and suggestions were incorporated into this proposed Unified Bill of Rights. The originally proposed bill of rights has seen a great transformation over the last several months and it is believed that this proposed version satisfies the various needs and/or concerns of the different stakeholders.

Throughout this process much work was done to develop language that is acceptable to all stakeholders. There are areas where differences still exist. One example of this pertains to the notice of termination when services are terminated by the arranged home care provider. The proposed language requires that at least a 30-calendar day notice is provided to individuals receiving home care services (See Right #8).

Through the evaluation of existing rights listed in Minnesota Statutes, sections 144A.44, 144A.441, and 245D.04, in conjunction with Landlord-Tenant rights identified in Minnesota Statutes, section 504B, a 30-day notice was identified as the most ideal timeframe to protect the health and safety of individuals receiving home care services. It achieves consistency and meet the requirements of the various statutory regulations that exist for individuals living in various settings and who receive these home care services. For example:

- Current regulations
 - Individuals who receive home care services and live in their own homes are required to receive a 10-day notice of termination of services.
 - Individuals who receive home care services and are renting their place of residence are required to receive a 10-day notice of termination of services. They are, however, required to receive a 30-day notice of eviction under landlord/tenant laws.
 - Individuals who receive home care services and are living in a housing with services establishment that markets themselves as an Assisted Living are required to receive a 30-day notice of termination of services. They are also required to receive a 30-day notice of eviction as these housing with services establishments are regulated by landlord/tenant laws as well.
 - Individuals who receive Basic support services as defined in Minnesota Statutes, section 245D.03, are required to receive a 30-day notice of termination of services regardless of the setting they are living in.
 - **Of note (and not within the scope of this evaluation) is that individuals who receive Intensive support services are required to receive a 60-day notice of termination of services. This level of service is not one which falls within the scope of the Integrated Licensing program.

Finally, it should be noted that this evaluation considered incorporating the Federal language pertaining to Medicare Certified providers but it was decided to limit this to non-Medicare, state-

only licensed providers. These state-only licensed providers account for just over 85% of the MDH-licensed Home Care providers in Minnesota. Due to the added complexity and difficulty incorporating the various federal requirements into this first phase of unifying client bills of rights, it was felt that this should be addressed in a future study/evaluation.

IV. Next Steps

This evaluation and report reflects ongoing efforts by MDH and various stakeholders to streamline the multiple client bills of rights for home care and HCBS while maintaining the protection of health and safety of clients. The simplification and unification of the bill of rights document will explain more clearly to consumers the rights they have and improve providers' ability to communicate these rights in clear, plain language. This will reduce the unnecessary (often redundant) and complex paperwork required of providers while reinforcing those rights that are identified in the document. This proposal maintains the necessary statutory requirements, uses plain language, and simplifies government regulations for Minnesotans. In addition, this will advance efforts in making state government better, faster, simpler, and more efficient for Minnesotans.

The next step is to continue this momentum and evaluate the other client bills of rights that were not in the scope of this evaluation and report. The commissioner of health should consult with consumers and consumer representatives, Leading Age Minnesota, Care Providers of Minnesota, Minnesota Home Care Association, the commissioner of human services, the Office of the Ombudsman for Long-Term Care, and other stakeholders to evaluate the requirements related to the other clients' rights across the licensed providers covered in Minnesota Statutes, sections 144.50 to 144.60, 144A.001 to 144A.1888, 144A.43 to 144A.484, and 144A.70 to 144A.756, while assuring and maintaining the health and safety of clients.

The evaluation should consider the federal client bill of rights requirements, when applicable, and if a unification of the multiple bill of rights is feasible related to the applicable federal requirements. The evaluation should determine if there are duplications or conflicts of client rights, evaluate how to reduce the complexity of the requirements related to clients' rights for providers and consumers, determine which rights must be included in a unified client bill of rights document, and develop options to inform consumers of their rights.

Following this further evaluation, the commissioner will provide a report to the legislature during the 2016 session, and include any recommendations for legislative changes.

V. Tables

A. Table 1 - Identifies those rights listed in Minnesota Statutes, sections 144A.44 and 245D.04 that are currently regulated through a statute or section within 144A. Based on this evaluation, it is recommended that these rights be eliminated from the Unified Bill of Rights. It should be noted that removing these rights from the Unified Bill of Rights does not remove the protections in place. In fact, by reducing the complexity and redundancy of language, the rights identified in the Unified Bill of Rights become clearer and stronger while the requirements listed in statute remain soundly intact.

Right	Existing and Enforced Through Statute(s)
<p>The right to receive written information about rights before receiving services, including what to do if rights are violated. (144A.44, subd. 1 (1))</p> <p>Provide each person or each person’s legal representative with a written notice that identifies the service recipient rights in subdivisions 2 and 3, and an explanation of those rights within five working days of service initiation and annually thereafter. (245D.04, subd. 1 (1))</p> <p>Make reasonable accommodations to provide this information in other formats or languages as needed to facilitate understanding of the rights by the person and the person’s legal representative, if any. (245D.04, subd. 1 (2))</p> <p>Maintain documentation of the person’s or the person’s legal representative’s receipt of a copy and an explanation of the rights. (245D.04, subd. 1 (3))</p>	<p>144A.4791, subd. 1</p>
<p>The right to know, before receiving services or during the initial visit, any limits to the services available from the home care provider. (144A.44, subd. 1 (6))</p> <p>Know, in advance, limits to the services available from the license holder, including the license holder’s knowledge, skill, and ability to meet the person’s service and support needs. (245D.04, subd. 2</p>	<p>144A.4791, subd. 3</p>

(4))	
The right to be told before receiving services the type and disciplines of staff who will be providing the services, the frequency of visits proposed to be furnished, other choices that are available for addressing home care needs, and the potential consequence of refusing these services. (144A.44, subd. 1 (3))	144A.4791, subd. 9
The right to be served by people who are properly trained and competent to perform their duties. (144A.44, subd. 1 (12))	
Receive services from an individual who is competent and trained, who has professional certification or licensure, as required, and who meets additional qualification identified in the person's coordinated service and support plan or coordinated service and support plan addendum. (245D.04, subd. 2 (9))	144A.4795, subd. 1
The right to have personal, financial, and medical information kept private, and to be advised of the provider's policies and procedures regarding disclosure of such information. (144A.44, subd. 1 (10))	
Have personal, financial, service, health and medical information kept private, and be advised of disclosure of this information by the license holder. (245D.04, subd. 3 (1))	144A.4794, subd. 1 (b)
The right to access the client's own records and written information from those records in accordance with sections 144.281 to 144.298. (144A.44, subd. 1 (11))	
Access to records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule. (245D.04, subd. 3 (2))	144A.4794, subd. 2

B. Table 2 - Identifies the rights that were unified which are identified in the corresponding 144A and 245D statutes.

Unified Right	144A Related Right(s)	245D Related Right(s)
1. The right to receive home care services subject to accepted health care, medical, or nursing standards.	144A.44, subd. 1 (2) and(4)	245D.04, subd. 1 (1) and (2)
2. The right to take an active part in developing, modifying and evaluating the service plan, the right to receive care and services according to an up-to-date and agreed upon service plan based on the client’s individual needs; and to be told in advance of any recommended changes in this plan.	144A.44, subd. 1 (2) and(4)	245D.04, subd. 1 (1) and (2)
3. The right to be informed orally and in writing, before services are initiated, what the charges are for services, including what payment may be expected from health insurance, public programs, or other sources, if known; what charges the client may be responsible for; and at least 30 calendar days’ written notice of changes in the fee schedule;	144A.44, subd. 1 (18)	245D.04, subd. 2 (6)
4. The right to be treated with courtesy and respect, including respect of one’s property, and one’s civil rights and liberties, such as freedom from bias and harassment regarding race, gender, age, disability, spirituality and sexual orientation; freedom to associate with others; and the right to privacy.	144A.44, subd. 1 (14)	245D.04, subd. 3 (3)
5. The right to be free from abuse, neglect, financial exploitation, and all forms of maltreatment defined under the Vulnerable Adults Act and the Maltreatment of Minors Act.	144A.44, subd. 1 (7) and (15)	245D.04, subd. 2 (7) and (8)
6. The right to be informed of the current contact information of protection and	144A.44, subd. 1 (13)	245D.04, subd. 3 (6), (7), and (8)

<p>advocacy services, including the appropriate state or county agency, and information for reporting suspected abuse, neglect or financial exploitation.</p>		
<p>7. The right to express concerns or complaints about services that are provided, or failed to be provided, and be informed of the license holder’s complaint policy.</p>	<p>144A.44, subd. 1 (22)</p>	<p>245D.04, subd. 1 (4); 245D.04, subd. 3 (11)</p>
<p>8. The right to at least 30 calendar days’ written notice of the termination of service(s) by the license holder, along with the reason for termination, that shall include: (1) the effective date of termination; (2) contact information for a reasonable number of other home care providers in the geographic area of the client; (3) the name and contact information of a representative of the license holder with whom the client may discuss the termination; and (4) other information required in Minnesota Statutes, section 144A.4791, subd. 10.</p> <p>a. The 30-day requirement is not required in cases where:</p> <p>i. The client engages in conduct that significantly alters the terms of the service plan with the licensed provider;</p> <p>ii. The client, person who lives with the client, or others create an abusive or unsafe work environment for the individual(s) providing the services;</p> <p>iii. An emergency or significant change in the client’s condition has resulted in service needs that exceed the current</p>	<p>144A.44, subd. 1 (16) and (17); 144A.441; 144A.442</p>	<p>245D.04, subd. 2 (5)</p>

<p>service plan and that cannot be safely met by the licensed provider; or</p> <p>iv. The provider has not received payment for services, for which at least ten calendar days' advance notice of the termination of a service shall be provided.</p>		
<p>9. The right to refuse or terminate services and be informed of the potential consequences of doing so.</p>	144A.44, subd. 1 (5)	245D.04, subd. 2 (3)
<p>10. The right to choose freely among available providers and to change providers after services have begun, within the limits of health insurance, long-term care insurance, medical assistance, or other health programs; and to be provided access to information about these services.</p>	144A.44, subd. 1 (9)	Did not exist
<p>11. The right to participate with the current home care provider in coordinating with a new provider of services to ensure continuation of needed service.</p>	144A.44, subd. 1 (19) and (20)	245D.04, subd. 3 (9)
<p>12. The right to have access to information related to landlord-tenant laws and those rights and responsibilities listed in Minnesota Chapter 504B when services are provided in a housing with services establishment and/or when the license holder is the owner, lessor, or tenant of the service site.</p>	Did not exist	Did not exist
<p>13. The right to give or withhold written informed consent to participate in any research or experimental treatment.</p>	Did not exist	245D.04, subd. 3 (12)
<p>14. The right to assert these rights personally, or have them asserted by the client's representative or any other authorized representative, including the license holder and per the service plan, without retaliation.</p>	144A.44, subd. 1 (21)	245D.04, subd. 3 (10)

VI. Attachments

Attachment 1: Proposed Unified Bill of Rights

Minnesota Home Care Bill of Rights

PER MINNESOTA STATUTE, SECTION 144A.44.

THESE RIGHTS PERTAIN TO CONSUMERS RECEIVING HOME CARE SERVICES FROM LICENSED HOME CARE PROVIDERS WITH THE INTEGRATED LICENSING DESIGNATION.

Statement of Rights

A person who receives home care services has these rights:

- (1) The right to receive home care services subject to accepted health care, medical, or nursing standards;
- (2) The right to take an active part in developing, modifying and evaluating the service plan, the right to receive care and services according to an up-to-date and agreed upon service plan based on the client's individual needs; and to be told in advance of any recommended changes in this plan;
- (3) The right to be informed orally and in writing, before services are initiated, what the charges are for services, including what payment may be expected from health insurance, public programs, or other sources, if known; what charges the client may be responsible for; and at least 30 calendar days' written notice of changes in the fee schedule;
- (4) The right to be treated with courtesy and respect, including respect of one's property, and one's civil rights and liberties, such as freedom from bias and harassment regarding race, gender, age, disability, spirituality and sexual orientation; freedom to associate with others; and the right to privacy;
- (5) The right to be free from abuse, neglect, financial exploitation, and all forms of maltreatment defined under the Vulnerable Adults Act and the Maltreatment of Minors Act;
- (6) The right to be informed of the current contact information of protection and advocacy services, including the appropriate state or county agency, and information for reporting suspected abuse, neglect or financial exploitation;
- (7) The right to express concerns or complaints about services that are provided, or failed to be provided, and be informed of the license holder's complaint policy;

- (8) The right to at least 30 calendar days' written notice of the termination of service(s) by the license holder, along with the reason for termination, that shall include: (1) the effective date of termination; (2) contact information for a reasonable number of other home care providers in the geographic area of the client; (3) the name and contact information of a representative of the license holder with whom the client may discuss the termination; and (4) other information required in Minnesota Statutes, section 144A.4791, subd. 10.
- a. The 30-day requirement is not required in cases where:
- i. The client engages in conduct that significantly alters the terms of the service plan with the licensed provider;
 - ii. The client, person who lives with the client, or others create an abusive or unsafe work environment for the individual(s) providing the services;
 - iii. An emergency or significant change in the client's condition has resulted in service needs that exceed the current service plan and that cannot be safely met by the licensed provider; or
 - iv. The provider has not received payment for services, for which at least ten calendar days' advance notice of the termination of a service shall be provided.
- (9) The right to refuse or terminate services and be informed of the potential consequences of doing so;
- (10) The right to choose freely among available providers and to change providers after services have begun, within the limits of health insurance, long-term care insurance, medical assistance, or other health programs; and to be provided access to information about these services;
- (11) The right to participate with the current home care provider in coordinating with a new provider of services to ensure continuation of needed service;
- (12) The right to have access to information related to landlord-tenant laws and those rights and responsibilities listed in Minnesota Chapter 504B when services are provided in a housing with services establishment and/or when the license holder is the owner, lessor, or tenant of the service site;
- (13) The right to give or withhold written informed consent to participate in any research or experimental treatment;
- (14) The right to assert these rights personally, or have them asserted by the client's representative as defined in Minnesota Statutes, section 144A.43, subdivision 1e, without retaliation.

IF YOU HAVE A COMPLAINT ABOUT THE PROVIDER OR PERSON PROVIDING YOUR HOME CARE SERVICES, YOU MAY CALL, WRITE, OR VISIT THE OFFICE OF HEALTH FACILITY COMPLAINTS, MINNESOTA DEPARTMENT OF HEALTH. YOU MAY ALSO CONTACT THE OFFICE OF OMBUDSMAN FOR LONG-TERM CARE OR THE OFFICE OF OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES.

Office of Health Facility Complaints

Phone: (651) 201-4201 or 1-800- 369-7994

Fax: (651) 281-9796

Website: <http://www.health.state.mn.us/divs/fpc/ohfcinfo/contohfc.htm>

Email: health.ohfc-complaints@state.mn.us

Mailing Address:

Minnesota Department of Health
Office of Health Facility Complaints
85 East Seventh Place, Suite 300
P.O. Box 64970
St. Paul, Minnesota 55164-0970

Ombudsman for Long-Term Care

Phone: (651) 431-2555 or 1-800-657-3591

Fax: (651) 431-7452

Website: <http://tinyurl.com/Ombudsman-LTC>

Email: mba.ooltc@state.mn.us

Mailing Address:

Home Care Ombudsman
Ombudsman for Long-Term Care
PO Box 64971
St. Paul, MN 55164-0971

Ombudsman for Mental Health and Developmental Disabilities

Phone: 651-757-1800 or 1-800-657-3506

Fax: 651-797-1950 or 651-296-1021

Website: <http://mn.gov/omhdd/>

Email: ombudsman.mhdd@state.mn.us

Mailing Address:

121 7th Place East
Suite 420 Metro Square Building
St. Paul, Minnesota 55101-2117

Licensee Name: _____

Phone: _____ **Email:** _____

Address: _____

Name/Title of Person to Whom Problems or Complaints May be directed:

For informational purposes only and is not required in the Home Care Bill of Rights text:
MN Statute, section 144A.44 Subd. 2. **Interpretation and enforcement of rights.**

These rights are established for the benefit of clients who receive home care services. **All home care providers, including those exempted under section 144A.471, must comply with this section.** The commissioner shall enforce this section and the home care bill of rights requirement against home care providers exempt from licensure in the same manner as for licensees. A home care provider may not request or require a client to surrender any of these rights as a condition of receiving services. This statement of rights does not replace or diminish other rights and liberties that may exist relative to clients receiving home care services, persons providing home care services, or providers licensed under sections 144A.43 to 144A.482.

Attachment 2: Proposed Legislative Language for Unified Bill of Rights

Client Bill Of Rights – Unified
Health Regulation Division, Minnesota Department of Health
2/10/15

Minn. Stat. sec. 144A.XX

Subdivision 1. Unified Home Care Bill of Rights. A person who receives home care services has the right to:

- (1) Receive home care services subject to accepted health care, medical, or nursing standards;
- (2) Take an active part in developing, modifying and evaluating the service plan, the right to receive care and services according to an up-to-date and agreed upon service plan based on the client's individual needs; and to be told in advance of any recommended changes in this plan;
- (3) Be informed orally and in writing, before services are initiated, what the charges are for services, including what payment may be expected from health insurance, public programs, or other sources, if known; what charges the client may be responsible for; and at least 30 calendar days' written notice of changes in the fee schedule;
- (4) Be treated with courtesy and respect, including respect of one's property, and one's civil rights and liberties, such as freedom from bias and harassment regarding race, gender, age, disability, spirituality and sexual orientation; freedom to associate with others; and the right to privacy;
- (5) Be free from abuse, neglect, financial exploitation, and all forms of maltreatment defined under the Vulnerable Adults Act and the Maltreatment of Minors Act;
- (6) Be informed of the current contact information of protection and advocacy services, including the appropriate state or county agency, and information for reporting suspected abuse, neglect or financial exploitation;
- (7) Express concerns or complaints about services that are provided, or failed to be provided, and be informed of the license holder's complaint policy;
- (8) At least 30 calendar days' written notice of the termination of service(s) by the license holder, along with the reason for termination, that shall include: (1) the effective date of termination; (2) contact information for a reasonable number of other home care providers in the geographic area of the client; (3) the name and contact information of a representative of the license holder with whom the client may discuss the

termination; and (4) other information required in Minnesota Statutes, section 144A.4791, subd. 10.

a. The 30-day requirement is not required in cases where:

- i. The client engages in conduct that significantly alters the terms of the service plan with the licensed provider;
- ii. The client, person who lives with the client, or others create an abusive or unsafe work environment for the individual(s) providing the services;
- iii. An emergency or significant change in the client's condition has resulted in service needs that exceed the current service plan and that cannot be safely met by the licensed provider; or
- iv. The provider has not received payment for services, for which at least ten calendar days' advance notice of the termination of a service shall be provided.

(9) Refuse or terminate services and be informed of the potential consequences of doing so;

(10) Choose freely among available providers and to change providers after services have begun, within the limits of health insurance, long-term care insurance, medical assistance, or other health programs; and to be provided access to information about these services;

(11) Participate with the current home care provider in coordinating with a new provider of services to ensure continuation of needed service;

(12) Have access to information related to landlord-tenant laws and those rights and responsibilities listed in Minnesota Chapter 504B when services are provided in a housing with services establishment and/or when the license holder is the owner, lessor, or tenant of the service site;

(13) Give or withhold written informed consent to participate in any research or experimental treatment;

(14) Assert these rights personally, or have them asserted by the client's representative as defined in Minnesota Statutes, section 144A.43, subdivision 1e, without retaliation.