DEPARTMENT OF HEALTH

Annual Legislative Report: Minnesota Home Care Licensing

REPORT TO THE MINNESOTA LEGISLATURE FOR FISCAL YEARS 2021 & 2022

Annual Legislative Report: Minnesota Home Care Licensing

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Executive Summary

Since July 1, 2015, state law has required the Commissioner of Health to submit an annual report to the Minnesota Legislature about licensed home care providers providing services to Minnesotans. This legislative report contains, among other things, the home care provider data outlined in statute for fiscal years (FY) 2021 and 2022. Two fiscal years are addressed as no report was submitted in 2020 due to the COVID-19 pandemic.

Assisted living licensure implementation was the most significant issue impacting home care licensing and regulation in FY 2021 and 2022. On August 1, 2021, comprehensive home care licensees decreased by 55% due to those licensees converting to an assisted living license. The Minnesota Department of Health (MDH) shifted its primary focus and resources from home care to assisted living to accommodate nearly 2,000 new assisted living licensees, which now outnumber home care providers three to one.

MDH issued 1,640 home care licenses across all home care license types in FY 2021 and 821 in FY 2022. MDH completed 502 home care surveys with 73% completed on-time in FY 2021 and 106 surveys with 6% completed on-time in FY 2022. MDH issued 4,938 correction orders in FY 2021 and 2,588 correction orders in FY 2022 to home care providers. MDH attributes the FY 2022 decrease in survey numbers and increase in survey delays to 1,973 comprehensive home care providers converting to an assisted living license (600 more licensee conversions than anticipated), for which MDH did not have the staffing resources, at the time, to support timely survey completion.

MDH received 7,225 home care complaint allegations in FY 2021 and 1,865 home care complaint allegations in FY 2022. In FY 2021, the most common maltreatment allegation type was resident-to-resident behaviors with patient rights violations as the most common compliance allegation. In FY 2022, the most common maltreatment allegation type was exploitation by a facility or staff member with patient rights as the most common compliance allegation. MDH investigated 890 complaints and issued 1,353 correction orders to home care providers in FY 2021 and 260 complaints and 81 correction orders in FY 2022. MDH would again attribute the decrease in home care complaint allegations received and investigated due to the large number of home care licensees that converted to assisted living licensure.

MDH received home care provider requests for reconsideration for 48 correction orders in FY 2021 and 62 correction orders in FY 2022. MDH's correction order determinations were upheld in-full 85% of the time in FY 2021 and 89% in FY 2022. All MDH home care license denial decisions were affirmed in both fiscal years.

Introduction

Background

Minnesota began licensing certain types of home care providers in 1987. In 2000, the United States Supreme Court ruled states were violating Title II of the Americans with Disabilities Act of 1990 if the states provided care to disabled people in institutional settings when they could be appropriately served in a home or community-based setting. (*See Olmstead v. L.C.,* 527 U.S. 581 (1999)). The *Olmstead* decision led nationally to the integration of disabled people into our communities rather than living and receiving services in segregated institutional settings. This community integration was a significant driver that expanded home care service use in our communities.

In response to the massive growth in the home care industry, the Minnesota Legislature established a stakeholder group in 2007 to identify how to update home care licensing. Based on the discussions and findings of this stakeholder group, in 2012, MDH and other stakeholders developed a legislative proposal with a detailed plan to increase inspections and oversight of licensed home care providers. During the 2013 legislative session, the Minnesota Legislature enacted new home care licensing laws that included a two-year implementation period. The legislative changes were fully in effect by July 1, 2015. This enacted legislation requires the Commissioner of Health to submit an annual report to the Minnesota Legislature that analyzed the following:

- The number of FTE (full-time equivalent) employees in the Health Regulation Division (formerly the Division of Compliance Monitoring) assigned to home care licensing, survey, investigation, and enforcement.
- The numbers of and descriptive information about home care licenses issued, complaints received and investigated, including allegations made and correction orders issued, surveys completed and timelines, and correction order reconsiderations and results.
- Descriptions of emerging trends in home care and areas of concern identified by the Department in its regulation of home care providers.
- Information and dates regarding performance improvement projects underway and planned by the Commissioner around home care surveys.
- The work of the Department's Home Care and Assisted Living Advisory Council.

This legislative report covers the time period from July 1, 2020, to June 30, 2021 (fiscal year (FY) 2021) and July 1, 2021, to June 30, 2022 (FY 2022). At the end of this report, home care provider specific terms and statutory requirements are provided for reference.

The Home Care and Assisted Living Program, or HCALP, is in the MDH Health Regulation Division (HRD). In FY 2021, it was the main section within HRD responsible for licensing and regulating home care providers. HCALP works closely with two other sections in the Division: Licensing and Certification

(L&C) and the Office of Health Facility Complaints (OHFC), each with a distinct regulatory role. In FY 2021, HRD's organizational structure was modified to streamline and consolidate Division operations and better align federal and state programs. HCALP is now known as State Evaluation and works with State Rapid Response, Licensing, Certification, and Registration (LCR) and our Federal HRD section.

COVID-19 Impact

This report content should be read knowing the COVID-19 pandemic occurred prior to and throughout FY 2021. Governor Tim Walz declared a peacetime emergency through Executive Order (EO) 20-01 due to COVID-19 on March 13, 2020. Home care survey activities ceased while MDH reorganized its staffing resources to address the pandemic emergency response efforts. On April 8, 2020, Governor Walz issued EO 20-32 whereby the Commissioner of Health was granted discretion to temporarily delay, waive, or modify any provisions or rules related to Minnesota Statutes, chapter 144A. In May 2020, MDH home care survey activities resumed on a limited basis with all survey activities focused first on infection control education and consultation and then on infection control compliance.

EO 20-32 was rescinded on August 12, 2020. However, MDH continued to operate throughout 2020 into 2021 under an emergency response organizational structure to address the pandemic under the direction of the Commissioner of Health with, at times, greater than 50% of home care staff reassigned to COVID-19 related duties throughout the agency. The staffing reassignments and abbreviated infection control only surveys impacted the number of home care surveys conducted and complaints investigated.

Licensing, Survey, Complaint and Reconsideration Data

Home Care Licensing Overview

MDH issues four primary home care license types: basic home care, comprehensive home care, temporary basic home care, and temporary comprehensive home care. Each home care license is valid for 12 months. See Appendix A for information regarding the services provided under each license type.

All federally certified home health agencies (HHAs) must have a Minnesota comprehensive home care license. Temporary comprehensive licensees may apply to become Medicare certified after being found in substantial compliance with an initial full survey and receiving a comprehensive home care license. Temporary licensees are not eligible for Medicare certification, nor are basic licensees.

A home care provider applicant or license holder may apply to MDH for a home and community based (HCBS) designation to provide some waivered services that otherwise require a license from the

Minnesota Department of Human Services (DHS) under chapter 245D. MDH is also responsible to register home management providers. Home management providers support people who are unable to perform household activities because of illness, disability, or physical condition.

MDH conducts surveys of home care providers to ensure provider compliance with home care licensing requirements under Minnesota Statutes, chapter 144A. MDH is required by statute to conduct a survey of each home care provider at least once every three years. During a survey, MDH surveyors review all pertinent regulatory and clinical documentation, observe staff providing services to clients, and conduct interviews with staff and clients to ensure compliance with licensing regulations. A survey is broad in nature and represents a snapshot in time of the systems and services provided to clients during the three-year survey cycle. MDH may conduct surveys at a home care provider more frequently if the MDH deems it necessary to ensure the health, safety, and wellbeing of the clients. All initial surveys of temporary licenses must be conducted within 14 months or within 90 days of the home care provider notifying MDH they are providing services to clients. MDH must conduct a survey within six months of a change-of-ownership license being issued.

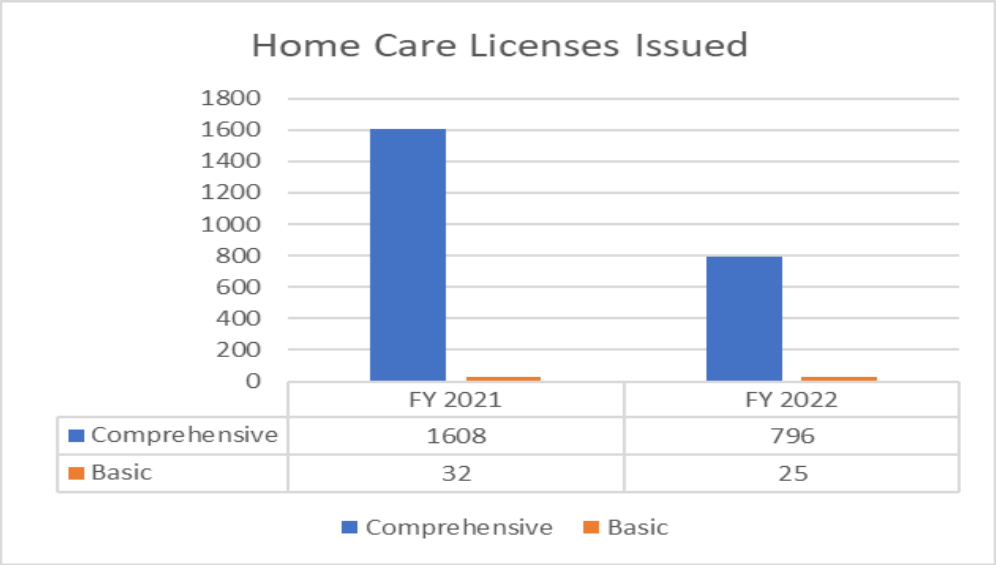
MDH cites licensing violations and issues correction orders through both the survey and complaint investigation process. The home care provider is required to remedy all the violations according to the instructions in the correction order letter sent to the provider. For home care providers, Minnesota Statutes, chapter 144A requires MDH to conduct follow-up surveys for any correction orders cited at a Level 3 or Level 4, or for violations considered to be widespread within 90 calendar days of the survey. The surveyor will focus on whether the previous violations are corrected and may also address any new violations observed while evaluating whether corrections from the survey have been made. If the correction orders are not corrected by the provider, MDH may issue fines up to $5,000 per violation for each uncorrected violation, issue a conditional license or suspend or revoke the license.

If a home care provider receives correction orders for violations, the home care provider may submit a request for reconsideration within 15 calendar days of receiving the correction order(s) if the home care provider wants to challenge MDH's decision, including the scope and level of the violation issued. MDH will then assign a reviewer who is independent of the survey or investigation that identified the violation, to determine whether MDH had sufficient evidence to support issuing the correction order to the home care provider. MDH then has 60 calendar days to respond in writing to the reconsideration request.

Licensing Data

MDH issued 1,640 home care licenses across all home care license types in FY 2021, which included new licenses and renewal of licensure. MDH issued 1,608 comprehensive home care licenses and 32 basic home care licenses. In FY 2022, MDH issued 821 home care licenses, 796 comprehensive home

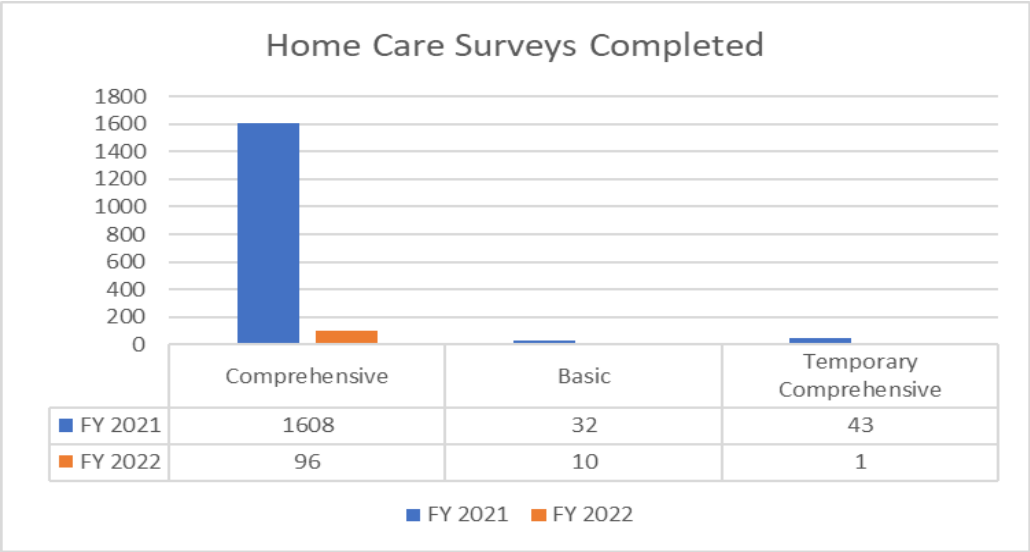
care and 25 basic licenses, a 50.1% decrease from FY 2021. MDH attributes the decrease in home care licenses to the large number of comprehensive home care providers choosing to convert to the new assisted living license effective August 1, 2021.



Survey Data

Survey and Timelines

MDH conducted 502 surveys for all home care provider types in FY 2021, which included 443 comprehensive home care surveys, 16 basic home care surveys, and 43 temporary comprehensive home care surveys. Of the 443 comprehensive surveys completed, 76% were completed on time. Of the 16 basic surveys completed, 50% were completed on time. In FY 2022, MDH completed 107 home care provider surveys, which included 96 comprehensive, 10 basic, and one temporary comprehensive. Of the 96 comprehensive surveys completed, 4.2% were completed on time. Of the 10 basic surveys, 10% were completed on-time.



Survey Correction Orders Issued

MDH issued 4,938 home care correction orders in FY 2021 due to licensing violations found during routine home care surveys. 4,828 of those correction orders were issued to comprehensive home care providers and 110 to basic. Of the 4,828 correction orders issued to comprehensive home care providers, infection control was the most prevalent violation type cited followed by violations related to content of service plans, tuberculosis (Tb) infection control, employee records, and individual abuse prevention plans. Of the 110 correction orders issued to basic home care providers, content of service plan violation was the most prevalent violation followed by violations related to employee records, TB infection control, basic individualized client review/monitoring, contents of client records, and statement of home care services. See Appendix B for more detail.

MDH issued 2,588 home care correction orders in FY 2022 due to licensing violations found during routine surveys. 2,365 of those correction orders to comprehensive home care providers and 223 to basic. Of the 2,365 correction orders issued to comprehensive home care providers, content of service plan violations was the most prevalent violation followed by violations related to TB infection control, individual abuse prevention plan, employee records, and required annual training. Of the 223 correction orders issued to basic home care providers, content of service plan was the most prevalent violation followed by violations related to TB infection control, employee records, contents of client records, and basic individualized client review/monitoring. See Appendix B for more detail.

Complaint Data

MDH receives and investigates complaints of alleged maltreatment of vulnerable adults and minors receiving services from MDH licensed healthcare facilities. Any member of the public can file a complaint about a health care facility or provider licensed by MDH, which includes licensed home care providers. State and federal laws also mandate licensed or certified health care providers report all incidents of suspected maltreatment against a vulnerable adult or minor. MDH's home care complaint allegation types are organized into two categories: Vulnerable Adult Act (VAA) allegation and General Compliance Code (GCC) allegation.

Most maltreatment allegations received by MDH come through one primary source, the Minnesota Adult Abuse Reporting Center (MAARC). Anyone may also contact MDH directly for assistance with filing a complaint. MDH may also choose to open its own complaint if information is received regarding the health, safety, and well-being of vulnerable persons receiving services in MDH licensed facilities.

Complaint Allegations Received

MDH received 7,225 home care provider complaint allegations in FY 2021 with 10 of those allegations against basic providers, 6,908 comprehensive, 204 home health agencies, and 103 temporary comprehensive. In FY 2022, MDH received 1,865 complaint allegations, which included 10 basic providers, 1,845 comprehensive, 10 basic, 153 home health agencies, and seven temporary comprehensive.

"Resident to resident" was the most common VAA complaint allegation received in FY 2021. The term "resident to resident" represents a broad range of behaviors alleged to have occurred between two or more residents, typically a physical or verbal altercation. This allegation category does not include resident to resident sexual abuse as all sexual abuse incidents are categorized together as "sexual abuse" regardless of the origin of the sexual abuse. Falls, no jurisdiction, neglect of supervision, and exploitation by facility/staff followed as the most reported allegation types. Patient rights violations were the most common GCC, or non-maltreatment allegation, received in FY 2021. See Appendix C for more details.

In FY 2022, the most common home care complaint allegation was "no jurisdiction" indicating it was determined MDH did not have jurisdiction to investigate the allegation thought by the complainant to be responsibility of the Department. In terms of most frequently reported, no jurisdiction allegations were followed by self-neglect, resident-to-resident behaviors, falls, neglect of supervision, and physical abuse. Patient rights violations continued to be the most common GCC, or non-maltreatment allegation, received. See Appendix B for more details.

MDH's data analysis did show 618 FY 2021 complaints and 469 FY 2022 complaints had no allegation code entered to determine the allegation category (VAA or GCC) or type of allegation. After reviewing a sample of the raw data, it was determined a combination of human error and software

incompatibility may have led to allegation data being entered into incorrect data software fields, thereby, no allegation code populated in the software to categorize the allegation type. After a quality assurance check of the sample data, MDH is confident each allegation was reviewed and assessed by MDH staff to determine if investigation was warranted, regardless of whether the allegation category was populated in the particular data field. At the time of this report, these "no code" complaints continue to be reviewed by MDH staff to make corrections in the triage software system, so the complaint allegation type is updated.

Complaint Investigations

Of the FY 2021 allegations received, MDH investigated 890 home care provider complaints, which included 869 maltreatment and licensing complaints for comprehensive home care, 10 for home health agencies, and 11 for temporary comprehensive home care. In FY 2022, MDH investigated 252 maltreatment and licensing complaints for comprehensive home care, five for home health agencies, and two temporary comprehensive home care.

Complaint Investigation Correction Orders Issued

MDH issued 1,353 home care correction orders to comprehensive home care licensees investigated in FY 2021.No correction orders were issued to basic providers. The correction order type most cited because of a complaint investigation was infection control, which is not surprising given the Department's infection control focus during the height of the COVID-19 pandemic in FY 2021. Infection control violations were followed by violations for the right of vulnerable adults to be free from maltreatment, service plan implementation and revisions, comprehensive assessment and monitoring, and up-to-date plan/accepted standards of practice. Home care agencies received 146 correction orders related to complaint investigations during that same timeframe. The five most issued correction orders to home health agencies after licensing violations were identified were related to immediate reporting of abuse by all staff, the right to be free from abuse, patient rights, infection prevention, and plan of care. See Appendix C for more details.

MDH issued 81 home care correction orders to comprehensive home care licensees investigated in FY 2022. No correction orders were issued to basic providers. The correction order type most cited because of a complaint investigation was the right to be free from maltreatment followed by violations related to individual abuse prevention plans, service plan, implementation, and revisions, conditional licensing, and infection control. One home care agency received 18 correction orders related to a complaint investigation during that same timeframe. See Appendix C for more details.

Reconsideration Data

Licensed home care providers have the right to request reconsideration of MDH issued correction orders and licensing actions. In FY 2021, MDH received 20 home care provider requests for reconsideration of correction orders, challenging a total of 48 cited violations. Of the 48 correction orders reconsidered, the most frequently contested orders related to maltreatment findings (8), comprehensive assessments (6), and infection control (6). In FY 2022, MDH received 20 requests for reconsideration challenging 62 cited deficiencies. Of the 62 correction orders reconsidered, the most frequently contested order related to contents of the service plan (5), infection control (5), and individual abuse prevention plans (4), and required contents of client records (4).

MDH made changes to its originally issued correction orders and enforcement decisions in five of the 20 (25%) requests for reconsideration in FY 2021. Of the 48 correction orders reconsidered, MDH determined 41 correction orders (85%) were supported in full, four (8%) had their level or scope modified, two (4%) were supported in substance with some modification to findings, and one (2%) was rescinded. One level or severity adjustment resulted in a rescinded fine. Fines associated with three maltreatment correction orders were reduced from $5,000 to $1,000 due to reevaluation of the level of harm the maltreatment was determined to have caused. Of the 62 correction orders reconsidered in FY 2022, 55 (89%) were supported in full, two (3%) changed the scope and level of the order, two (3%) requests were withdrawn or closed, and three (5%) were rescinded.

Additionally, home care license applicants requested reconsideration of license denials on 18 occasions in FY 2021 and two occasions in FY 2022. MDH affirmed the home care license denial of all reconsideration requests in both fiscal years.

MDH-HRD Staffing for Home Care Licensing and Regulation

The 2013 Minnesota Legislature passed legislation that raised home care licensing and application renewal fees to increase MDH's budget for more staff to license and inspect home care providers. The 2013 licensing fees remain the same for FY 2021 and FY 2022. The home care licensing application fees are $2,100 for a basic home care license and $4,200 for a comprehensive home care license.

Once a basic or comprehensive home care license is issued, providers must renew the license annually. Renewal fees are based on the provider's revenue from licensed home care services in the year prior to the renewal and range from $200 to $6,625. The home care licensing fees work to support the MDH staff who license, inspect, and regulate state-licensed only home care providers. This includes OHFC staff who investigate complaints made against home care providers, and the HRD federal section that licenses and inspects home care providers that are state-licensed, and Medicare certified.

In FY 2021, MDH had 28.91 FTEs total assigned to support home care licensing, survey, and the enforcement process. Of those 28.91 FTEs, there were 13.08 FTEs assigned to conduct the onsite home

care surveys and follow-up visits, with the remaining FTEs in supervisory, management, and administrative support positions. In FY 2022, there were 25.76 FTEs total assigned to home care with 11.39 FTEs assigned to conduct onsite home care surveys and licensing order follow-up visits.

While OHFC is assigned to conduct home care complaint investigations, OHFC's 39.96 FTEs in FY 2021 and 45.94 FTEs in FY 2022 account for triage, investigation, enforcement, management, and administrative support staff with several provider types, which includes home care, nursing homes, supervised living facilities and as of FY 2022, assisted living facilities. Due to the nature of HRD's substantial software changes during these fiscal years, it is difficult to parse out the exact allocation of staff FTEs specific to only home care complaints, thus, total FTEs are reported. However, in FY 2021, greater than 95% of OHFC complaints were home care investigations and, in FY 2022, 29% of OHFC complaints were home care investigations post-assisted living licensure implementation (which helps give an approximate estimate of the FTE resources allocated towards home care licensees).

Emerging Trends and Concerns

Many emerging trends in home care may also be considered as concerns and vice versa, so both emerging trends and concerns are addressed organizationally within this report under one heading.

Emerging Trends

1. Significant provider conversion from home care to assisted living licensure.

In 2019, the Minnesota Legislature adopted Minnesota Statutes, chapter 144G, creating the new licensure category of assisted living. Prior to this, assisted living type services were provided by comprehensive home care providers operating in registered housing with services settings who also applied to be designated as an assisted living. Now, the assisted living license provides a single, integrated license with both housing and assisted living services combined, and enhances the protections provided to the consumers of those services.

With assisted living licensure effective August 1, 2021, MDH spent FY 2021 putting systems in place to prepare for the new license. It was originally anticipated approximately 1,300 to 1,500 home care providers would convert to the new assisted living license. However, 1,973 home care providers converted with a total resident capacity of 58,795. MDH data from June 2021 suggests home care licensees dropped from 1,640 in FY 2021 to 738 licensees in FY 2022, an estimated 55% decrease.

This significant shift from home care to assisted living facilities means that residents in home care are now counted within assisted living facilities, which now serve over 66,000 Minnesotans, which is more people served than all other health care facility licensure types combined. Despite this shift, the

number of providers who retained their home care license exceeded MDH's pre-August 1, 2021, estimates. MDH originally estimated only 20% of home care licensees would retain a home care license. However, it is estimated closer to 55% chose to retain their home care license and, in most cases, did so in conjunction with conversion to assisted living licensure.

2. All home care providers in Minnesota are now truly community home care providers.

With the implementation of assisted living licensure on August 1, 2021, Minnesota home care providers can no longer provide housing to clients receiving their services. In the past, home care licensing included the settings which provided housing and services in a single bundle. As described in the preceding trend, those settings converted to the new assisted living licenses. All Minnesota home care providers are now community providers that may only go into the client's home or other care setting to provide home care services. As of the time of this report, the conversion has only been in place for less than 18 months since the effective date of assisted living licensure. Thus, it is still too early to tell what long-term impact the conversion will have on consumer use of home care services in Minnesota.

3. New home care providers continue to emerge despite growth of assisted living.

Although over half of MDH licensed comprehensive home care providers converted to assisted living licensure in 2021, MDH continues to receive a small, but steady stream of home care licensing applications indicating continued business interest in the home care industry in Minnesota.

Concerns

1. Post-COVID-19 healthcare and infection control.

Although we are gradually entering what might be thought of as a "post-pandemic" phase of COVID-19, the continued presence of COVID-19 and the emergence of new strains, alongside newly emerging diseases like monkeypox, continue to make infection control precautions of utmost concern for all health care providers. Even more commonplace infections, like tuberculosis (TB), are still in need of precautions and monitoring on an ongoing basis.

Infection control was the most cited concern by MDH for home care providers in FY 2021. MDH issued 294 correction orders from home care surveys and complaints related to deficiencies in infection control programs, mostly related to lack of appropriate COVID-19 screening and use of personal protective equipment, e.g., face mask, eye protection, etc. MDH cited home care providers for noncompliance with TB infection control measures 232 times during the survey process (3rd most cited home care correction order).

2. Limited understanding of assisted living licensure requirements and differentiation between home care and assisted living.

While 1,973 comprehensive home care providers converted to assisted living licensure, many of these former home care licensees have struggled with the new assisted living licensure standards. In the first 12 months of assisted living licensure implementation (most of FY 2022), State Evaluation (formerly known as Home Care and Assisted Living Program (HCALP)) cited former home care providers 8,212 times for violations of Minnesota Statutes, chapter 144G, while HCALP cited home care providers only 4,938 times in FY 2021 prior to assisted living licensure implementation. This is an estimated 40% increase in correction orders issued by MDH. This marked increase in correction orders issued by the Department, as well as review of correction order content identifying the deficiencies, speaks to the lack of clarity regarding the new assisted living licensure standards.

3. Difficulty ascertaining the actual number of home care providers.

Nearly 18 months into assisted living licensure implementation, MDH continues to analyze sizeable numbers of initial licensing and renewal applications to verify which home care providers converted to assisted living, closed their business, or continue to provide services with a home care license. One complicating factor is home care providers that converted to assisted living had the option to continue to renew their home care license making it difficult to discern whether the newly licensed assisted living provider intends to use the home care license, or they are simply waiting for the license to expire. MDH anticipates there will be better clarification of the number of licensed home care providers after the first couple of assisted living license renewal cycles are complete when more providers are likely to let their home care licenses expire and/or close their home care businesses.

Current and Planned Improvement Projects

1. Survey process review

It is important to make the best use of limited resources to assure MDH conducts as many timely surveys as possible. MDH routinely reviews the survey process and quantitative data to determine:

- How to reduce the overall onsite survey time to conduct a survey from start to finish.
- If and when to conduct an onsite or desk follow-up survey.
- How to best write correction orders consistently and concisely and to minimize the hours it takes for surveyors to write those orders.
- What tools, data and internal department and external stakeholder relationships can help to better target which providers to survey next to ensure client health and safety.

2. Communication to home care providers

MDH has offered a series of teleconference informational calls, Home Care Matters, for home care providers to help those providers understand and implement home care regulations by providing technical assistance and answering questions. With the significant number of comprehensive home care providers converting to assisted living licensure, these informational calls ceased in early 2021 as MDH's focus shifted to informing converting home care providers about the new assisted living regulatory standards. MDH resumed these informational calls in late 2022. MDH also has efforts underway to review and update its website pages dedicated to home care licensing and anticipates the website updates will be complete by early-to-mid 2023.

3. Evaluation Workload Specialist (EWS) hired

In FY 2023, HRD hired two EWS staff to support the survey and complaint scheduling process. These staff monitor survey and complaint scheduling workloads on a weekly basis and analyze work completed against work yet-to-be-scheduled to provide HRD leadership with an in-time accounting of progress towards statutory and internal process goals. Use of EWS staff also removed most scheduling responsibilities from HRD supervisors enabling those supervisors to add more time to surveyor and investigator support and timely correction order and complaint investigation report reviews.

4. HRD Public Dashboard

HRD is currently developing a public dashboard planned for release in early 2023. This dashboard will be accessible to the public through the MDH website and will show, among other things, MDH's most recent home care data. This project is intended to foster transparency to the public, providers, and stakeholders.

5. Survey and Complaint Web Postings

HRD's leadership is currently working in conjunction with Minnesota Information Technology (MNIT), the agency providing all IT services for state agencies, to create an agile, user-friendly healthcare provider search function to look-up MDH's licensed healthcare provider programs and their most recent survey and complaint outcomes. Through better technology, the public will be able to look up provider information utilizing a variety of data points to identify the latest licensing and survey information for MDH licensed provider types.

Home Care Provider Advisory Council

The purpose of the Home Care Provider Advisory Council[1] is to provide advice to the Department regarding the Department's regulatory authority with home care and assisted living providers. This advice may include community standards for home care practices, enforcement of licensing standards and disciplinary actions, distribution of information to providers and consumers standards, emerging issues, identifying the use of technology in home and telehealth capabilities, allowable licensing modifications and exemptions, and recommendations for studies using data.

The Advisory Council is organized according to Minnesota Statutes, section 144A.4799, subdivision 1, and MDH pays Council members a per diem and costs incurred within the limits of available appropriations. MDH hosts quarterly Council meetings that are open to the public as required by Minnesota Statutes, chapter 13. In FY 2021, Minnesota Statutes, section 144A.4799, subdivision 1 required the Department to appoint an eight-person advisory council but was then amended to a 13-person advisory council with the following member positions:

- Two public members who are either people currently receiving home care services or who have family members who received home care services within the past five years.
- Two members representing basic and comprehensive home care licensees.
- Two public members who are either people currently receiving assisted living services or who have family members receiving assisted living services.
- Two members representing assisted living licensees.
- One organization representing long-term care, home care, and assisted living providers in Minnesota.
- One member from the Board of Nursing.
- One member from the Office of Ombudsman for Mental Health and Developmental Disabilities. an
- One member from the Office of Ombudsman for Long-Term Care.

MDH issues fines up to $5,000 per violation when providers do not correct violations identified during a survey or investigation. MDH deposits the fines collected into a special fund, which the Commissioner of Health can appropriate for special projects recommended by the Advisory Council to improve home care and assisted living services within the state.

The Advisory Council met monthly to every other month in FY 2021 and FY 2022 depending on the business needs of the Council. In December 2020, the Advisory Council submitted a recommendation letter to the Commissioner of Health to create the Social Isolation Grant to provide funds to help long-term care facilities mitigate social isolation in their facilities related to the infection control precautions

[1] Since assisted living licensure became effective on August 1, 2021, the working title used by the Council is the "Home Care and Assisted Living Program Advisory Council" to incorporate both home care and assisted living into the work of the Council. This is consistent with the 2022 legislative changes to 144A.4799 that incorporates assisted living representation on the Council However, the Council name in statute has yet to be modified.

in place due to the COVID-19 pandemic. The Social Isolation Grants were funded by the fines collected by MDH through correction orders issued to home care providers. Over FY 2021 and FY 2022 combined, MDH accepted 52 grant applications and awarded 39 grants with a total amount of $56,708.81 distributed to home care and assisted living provider applicants.

At the end of FY 2022, the Advisory Council began finalizing plans for a second round of Social Isolation Grants, later renamed Social Connection Grants.[2]

[2] In FY 2023, the Commissioner of Health gave the Advisory Council approval to fund home care and assisted living providers to promote social connection of vulnerable adults residing in home care and assisted living provider settings. The Advisory Council may provide grants up to $5,000 for each applicant selected. Total funds to be distributed are no more than $250,000. The funds may be used by the applicant to purchase devices to assist with virtual visits designated for social connection. The device could also be designated for both health care and social connection. The funds may also be used for assistance with improving Wi-Fi or assisting with training and staffing for use of the devices purchased.

Appendices

APPENDIX A

Glossary of Home Care Licensing Terms

1. **Home Care** — The term "home care" encompasses a broad range of services and supports regulated by the Department under Minnesota Statutes, chapter 144A, which may include, but are not limited to, the following:

   - Providing assistance with activities of daily living (ADLs) like brushing teeth, dressing, bathing, toileting, eating, and moving from one location to another.
   - Managing and administering medications.
   - Complex skilled care and treatments for people who for example, use ventilators to breathe, receive nourishment through feeding tubes, or are brittle diabetics.
   - People who need constant oversight and redirection because of cognitive loss from brain injuries or dementia.
   - Physical, occupational and speech language therapy to help people regain or maintain function.

2. **Basic Home Care License** — Home care providers with a basic home care license may provide services that are assistive tasks provided by a licensed or unlicensed personnel, which may include:

   - Assistance with dressing, eating, brushing hair and teeth, toileting, and bathing.
   - Providing standby assistance (no physical contact).
   - Providing verbal or visual reminders to people to take their medications or perform scheduled treatments or exercises.
   - Prepare food or diet ordered by a licensed health professional, like a dietician or physician.
   - Assist with laundry, housekeeping, cooking, shopping, or other household chores.

3. **Comprehensive Home Care License** — Home care providers with a comprehensive home care license may provide services that include any of the above-mentioned basic home care services and one or more of the following:

   - Services of an advanced practice nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietician, nutritionist, or social worker.

- Tasks delegated to unlicensed personnel by a registered nurse or assigned by licensed health professional.
- Medication management services.
- Hands-on assistance with transfers and mobility.
- Treatment and therapies.
- Assisting with people with eating who have complicated eating problems, like swallowing difficulties, choking episodes or require a feeding or intravenous tube for nutrition.
- Providing other complex or specialty health care services.

4. **Integrated License Add-On** — A home care provider applicant or license holder may apply to MDH for a home and community-based (HCBS) designation to provide some services that otherwise require a license from the Minnesota Department of Human Services (DHS) under Minnesota Statute, chapter 245D. With an integrated license with HCBS designation, a basic or comprehensive licensed home care provider can also offer the following waivered services:

   - 24-hour emergency assistance
   - Companion services
   - Homemaker
   - Night supervision
   - Personal support
   - Respite care

5. **Home Management Registration** — Home management providers support people who are unable to perform household activities because of illness, disability, or physical condition. The supports include housekeeping, meal preparation and shopping. A licensed home care provider can deliver these services with a home management registration.

APPENDIX B

FY 2021 and FY 2022 Top Five Survey Correction Orders Issued

Rank FY 2022	Allegation Type Comprehensive	No.	Allegation Type Basic	No.
1	Content of Service Plan	145	Content of Service Plan	24
2	Tb Infection Control	138	Tb Infection Control	23
3	Individual Abuse Prevention Plan	111	Employee Records	20
4	Employee Records	108	Contents of Client Records (Tie) Basic Individualized Client Review/Monitoring (Tie)	13/13
5	Required Annual Training	103	Infection Control Program (Tie) Service Plan, Implementation & Revisions (Tie)	11/11

Rank FY 2021	Allegation Type Comprehensive	No.	Allegation Type Basic	No.
1	Infection Control	294	Content of Service Plan	11
2	Content of Service Plan	262	Employee Records (Tie)	9
3	Tb Infection Control	232	Tb Infection Control (Tie)	9
4	Employee Records	191	Basic Individualized Client Review/Monitoring	7
5	Individual Abuse Prevention Plan	184	Contents of Client Record (Tie) Statement of HC Services (Tie)	6/6

APPENDIX C

FY 2021 and FY 2022 Top Five Complaint Maltreatment Allegation Types Received

Rank FY 2021	Allegation Type Comprehensive	No.	Allegation Type Basic	No.	Allegation Type HHA	No.
1	Resident to Resident	778	Physical Abuse	3	No Category Identified*	166
2	Falls	718	Resident to Resident	1	Exploitation by Facility/Staff	7
3	No Jurisdiction	552	No Jurisdiction	1	Falls	5
4	Neglect of Supervision	502	None	0	No Jurisdiction (Tie)	4
5	No Category Identified	452	None	0	Sexual Abuse	4

Rank FY 2022	Allegation Type Comprehensive	No.	Allegation Type Basic	No.	Allegation Type HHA	No.
1	No Jurisdiction	353	Neglect of Caregiver	5	No Category Identified*	136
2	Neglect of a Caregiver	322	Exploitation by Facility/Staff	2	No Jurisdiction	7
3	Financial Exploitation by Staff/Caregiver	188	Self-Neglect	1	Exploitation by Facility/Staff	4
4	Emotional Abuse	169	No Category Identified*	1	Self-Neglect (Tie)	1
5	Physical Abuse	105	No Category Identified*	1	Call Light/ Discharge Rights (Tie)	1

*These categories are among date fields MDH's data analysis identified the 618 FY 2021 complaints and 469 FY 2022 complaints that had no allegation code entered to determine the allegation category (VAA or GCC) or type of allegation.

APPENDIX D

FY 2021 and FY 2022 Top Five Complaint Investigation Correction Orders Issued

Rank FY 2021	Correction Orders Comprehensive	No.	Correction Orders Basic	No.	Correction Orders HHA*	No.
1	Infection Control	294	Content of Service Plan	11	Immediate Reporting of Abuse by Staff	14
2	Content of Service Plan	262	Employee Records	9	Be Free from Abuse	12
3	TB Infection Control	232	TB Infection Control	9	Patient Rights (Tie)	11
4	Employee Records	191	Basic Individualized Client Review/Monitoring	7	Infection Prevention (Tie)	11
5	Individual Abuse Prevention Plan	184	Statement HCS/Contents of Client Record (TIE)	6/6	Plan of Care Not Followed	9

Rank FY 2022	Correction Orders Comprehensive	No.	Correction Orders Basic	No.
1	Content of Service Plan	145	Content of Service Plan	24
2	TB Infection Control	138	TB Infection Control	23
3	Individual Abuse Prevention Plan (Tie)	108	Employee Records	20
4	Required Annual Training (Tie)	108	Content of Client Records	13
5	Employee Records	103	Basic Individualized Client Review/Monitoring	13

*In FY 2022, MDH issued 18 different correction orders to only one HHA provider, thus, no ranking of data could be made for HHA correction orders issued with complaint investigations.