Minnesota Home Care Licensing

FY 2024

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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 year (FY) 2024.

The Minnesota Department of Health (MDH) Health Regulation Division (HRD) regulated 826 home care licenses in FY 2024. In FY 2024, MDH conducted a total of 340 home care surveys: 237 comprehensive, 15 basic, 20 temporary basic, and 68 temporary comprehensive, resulting in 1,344 home care correction orders issued in FY 2024. Compliance with tuberculosis (TB) prevention and control was the top licensing violation. MDH received 14 requests for reconsideration for home care licensees which included four license denials and 42 licensing correction orders. All MDH decisions regarding the license denials were upheld. For licensing correction orders, 29 licensing correction order decisions were upheld, 12 were rescinded, and one had a scope and severity of the correction order reduced. MDH received one request for reconsideration for a home care licensing order in FY 2024.

MDH received 1,018 home care provider complaints containing 1,429 maltreatment and 308 compliance allegations in FY 2024. Caregiver neglect was the most reported maltreatment allegation. Noncompliance with nursing service requirements was the most reported compliance violation. Of the FY 2024 complaint allegations received, MDH investigated 128 home care provider complaints or approximately 12% of total home care complaints received. MDH determined after reviewing each incident the remaining complaints received did not meet the triage criteria threshold for investigation. There were 70 home health agency investigations related to compliance with federal certification, 39 maltreatment investigations, and 19 compliance investigations under state licensure. One home care maltreatment request for reconsideration was received.

MDH fulltime equivalent (FTE) employee positions support more than one licensing program as employees work assignments are assigned by function, not by licensing program, thus, MDH does not have dedicated FTEs that only process state home care licensing, surveys, complaints, and enforcement but utilize staff that support multiple HRD licensing programs.

Regarding continuous improvement projects, in FY 2024 and FY 2025, HRD's Planning and Partnerships continued working with home care and assisted living licensees and stakeholders to develop solutions to TB and Individual Abuse Prevention Plan (IAPP) noncompliance based off the systemic mapping findings. MDH continued to routinely to meet with home care licensees, provider associations, and stakeholders to foster on-going communication and build positive relationships. The HRD Provider Feedback Questionnaire was utilized to obtain critical feedback from licensees on the Department's survey and complaint investigations processes for support the Department's continuous improvement efforts.

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 people with disabilities 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 analyses 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 in the area of home care surveys.
- The work of the Department's Home Care and Assisted Living Advisory Council.

This legislative report covers the time from July 1, 2023, to June 30, 2024, or FY 2024. 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, was renamed after an organization redesign in FY 2022 to State Evaluation. In FY 2024, State Evaluation was responsible for conducting home care licensing surveys, and the Office of Health Facility Complaints (OHFC), internally renamed State Rapid Response, was responsible for home care complaint investigations. The HRD Licensing, Certification, and Registration (LCR) section was responsible for the initial licensing, renewal, and enforcement of home care licensing activity.

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.

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 well-being 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. 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

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 remained the same for FY 2024. 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. In addition, State Rapid Response teams (formerly OHFC) investigates complaints made against home care providers, and the HRD federal section licenses and inspects home care providers that are state-licensed, and Medicare certified.

MDH regulated 826 home care licenses in FY 2024, which included 473 comprehensive, 41 basic, 149 home health agency, 117 temporary comprehensive and 46 temporary basic home care licenses. On Aug. 1, 2021 (FY 2022), assisted living licensure laws became effective in Minnesota, whereby, hundreds of comprehensive home care licensees converted to an assisted living license. From FY 2022 to 2024, the number of home care providers decreased by 52%. The comprehensive home care licensees had the most significant change with 1,004 fewer licensees or a 68% decrease in the same time period.

Survey Data and Timelines

MDH is required to conduct basic and comprehensive surveys at least once every three years for state licensed, non-federally certified home care providers. Due to the assisted living licensure implementation and significant decline in the number of home care licenses, MDH experienced an on-going cycle of recalculation and reprioritization of comprehensive home care surveys between FY 2022 and FY 2024.

In FY 2024, MDH conducted a total of 340 home care surveys: 237 comprehensive, 15 basic, 20 temporary basic, and 68 temporary comprehensive. To successfully complete all basic and comprehensive home care surveys in a three-year timeframe, MDH needs to complete 158

comprehensive surveys per year for 473 comprehensive licensees, and 14 basic surveys per year for 41 basic licensees. MDH will continue to meet the three-year timeframe at its current survey pace.

MDH is also required to conduct surveys of temporary comprehensive and temporary basic licenses who are provisionally licensed pending an MDH survey validating the licensee is in substantial compliance with Minnesota Statutes, chapter 144A. MDH conducted 57 temporary comprehensive and 18 temporary basic surveys in FY 2024.

Survey Correction Orders Issued

MDH issued 1,344 home care correction orders in FY 2024 due to licensing violations found during routine home care surveys; 1,174 of those correction orders were issued to comprehensive home care providers and 170 to basic. Of the 1,344 correction orders issued to basic and comprehensive home care providers, TB infection control (109), content of service plan (74), employee records (73), comprehensive assessment and monitoring (66), and IAPP (56) were the top violations.

Complaint Data

MDH receives and investigates complaints of alleged maltreatment of vulnerable adults and minors receiving services from MDH licensed healthcare providers, as well as licensing compliance violations. 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 1,080 home care provider complaints in FY 2024 with eight of complaints against basic providers, 836 comprehensive, 153 home health care agencies, and 21 temporary comprehensives. A complaint may contain more than one allegation against a provider, thus, there may be more allegations than complaint reports submitted. The 1,080-home care license complaints contained 1,429 maltreatment allegations. For vulnerable adults, the maltreatment allegations were caregiver neglect (575), financial exploitation in a nonfiduciary relationship (232), emotional or mental abuse (221), self-neglect (189), physical abuse (102), financial exploitation in a fiduciary relationship (69), and sexual abuse (29). For child maltreatment, MDH received 12 allegations with neglect (9) and physical abuse (3).

The 1,080 home care licensee complaints also contained 308 licensing compliance allegations. The largest number of those compliance allegations were related to federal deficiencies with certified home care agencies (117). The top five compliance allegations related to state home care licensure were as follows: client rights and grievances (30), staffing (17), not categorized (17), client safety (16), and inappropriate boundaries (15).

Complaint Triage and Investigations

Minnesota law grants the Commissioner discretion whether to investigate, and if an investigation is deemed necessary, authority to determine investigation priorities of the investigation work. The Minnesota Vulnerable Adults Act requires MDH to make its initial disposition of a maltreatment allegation within five (5) business days. An initial disposition is MDH's determination whether further investigation of the allegation is necessary.

Every complaint allegation received by MDH is evaluated to determine whether the allegation meets MDH's criteria for priority 1 and priority 2 allegations to investigate. A priority 1 complaint allegation is an assertion an alleged incident at a non-federally certified home care license caused death or serious injury to a resident or client, and there continues to be an immediate risk. A priority 2 complaint allegation is an assertion that an alleged incident at a non-federally certified licensee has not resulted in death or serious injury but may have caused harm or has significant likelihood to cause serious harm or injury to a resident or client. Examples of a priority 2 complaint allegation could include repeated medication errors, failure to intervene in a declining health condition, emotional or mental abuse, pressure ulcers, restraint or confinement not resulting in death or injury, or narcotic drug diversion.

The Minnesota Vulnerable Adults Act requires maltreatment investigations be completed within 60 calendar days from receipt of the complaint by MDH to completion of the investigation with the option to extend the investigation in 60-day increments, if needed, to finish the investigation.

Of the FY 2024 complaint allegations received, MDH investigated 128 home care provider complaints or approximately 12% of total home care complaints received. There were 70 home health agency investigations related to compliance with federal certification, 39 maltreatment investigations, and 19 compliance investigations under state licensure.

Reconsideration Data

Minnesota Statutes, section 144A.474, subdivision 12 requires MDH make available to home care providers a correction order reconsideration process, so providers have a mechanism to challenge the correction order(s) issued by the Department. Home care providers request for reconsideration may include a challenge to the scope and level of the correction and any fine(s) assessed by the Department. During the correction order reconsideration request process, the correction order remains an active order while under reconsideration.

In FY 2024, MDH received 14 requests for reconsideration for home care licensees which included four license denials and 42 licensing correction orders. All MDH decisions regarding the license denials were upheld. For licensing correction orders, 29 licensing correction order decisions were upheld, 12 were rescinded, and one had a scope and severity of the correction order reduced. There was one request for reconsideration received related to maltreatment and at the time of this report, and the Department's decision was still pending.

MDH-HRD Staffing for Home Care Licensing and Regulation

MDH-HRD's fulltime equivalent (FTE) employee positions support more than one licensing program as employees' work assignments are assigned by function, not by licensing program; thus, HRD does not have dedicated FTEs that only process home care licensing, surveys, complaints, and enforcement. In FY 2024, a percentage of 62.5 FTEs supported intake, home care licensing, survey evaluator and supervisor, enforcement, reconsideration, management, budget, call center and administrative job functions for the home care licensure program. Of those FTE percentages, HRD State Evaluation had 10.5 nurse evaluator FTEs assigned by budget allocation to conduct onsite home care licensure surveys and follow-up visits.

Likewise, HRD State Rapid Response triage specialists and nurse investigators are assigned maltreatment and licensing compliance complaints and investigations for all state-licensed, non-federally certified providers, not just home care licensees. In FY 2024, State Rapid Response had 28 nurse investigator FTEs for all state-licensed, non-federally certified licensee investigations, and allocated four FTEs of State Rapid Response nurse investigator resources to home care complaints in FY 2024.

Current and Planned Improvement Projects

Stakeholder Outreach

HRD managers review complaints and correction orders monthly to identify the most prevalent maltreatment and compliance issues. These findings are shared monthly with the long-term care provider associations and periodically with consumer and elder advocate groups. HRD also utilizes these findings to create educational content for Webex presentations, annual provider conferences, MDH website content, and informational emails to licensees. HRD managers meet one to two times a month with the long-term care provider associations, every four to six weeks with consumer advocates, weekly with the long-term care ombudsmen, and quarterly with the mental health and development disabilities ombudsmen.

Continuous Systems Change

For more than five years, MDH has noted the persistent home care trend of provider noncompliance with TB Prevention and Control and IAPP regulations with little to no improvement. TB Prevention and Control and IAPP violations remain in the top ten citations issued by MDH, often with TB Prevention and Control noncompliance being the top violation.

To address this trend, HRD's Planning and Partnerships section began utilizing a unique model of safety science in calendar year (CY) 2021 known as Collaborative Systems Change (formerly known as Collaborative Safety). This process supports data collection and analysis of regulatory violations to learn the root cause of why noncompliance with TB Prevention and Control and IAPP regulations continue to persist. HRD initially hired a consultant and coordinated training events for HRD executive leadership, staff, partners, and providers. In CY 2022 and 2023, HRD implemented the Systemic Critical Incident Review (SCIR) model and systemic mapping, which included mentoring by trained safety analysts, leadership labs, and advanced practical training.

In CY 2023, HRD conducted 10 systemic mapping sessions with home care and assisted living providers, five for TB Prevention and Control and five for IAPPs. Through the TB Prevention and Control systemic mapping sessions, HRD learned providers were often confused about which statutory requirements, federal regulations, or TB manuals to follow. Providers expressed there was a lack of clarity surrounding the use of prior negative or non-active TB tests for new staff, variations in the types of efficiencies of procedures, complexities around who can read a TB skin test, and variations in how TB testing costs are managed. It was also noted that smaller providers often lack access to organizational memberships and mentorship programs with provider associations or healthcare organizations for educational resources.

Through the IAPP systemic mapping sessions, HRD learned providers experienced confusion about the regulatory requirements to develop IAPPs, which included requirements from multiple laws, agencies, and boards with whom the providers must comply. Providers expressed concerns that the MDH website with voluminous amounts of instructional and regulatory materials could be difficult to navigate. Providers had varying interpretations of the word "vulnerable" when applied to a client or resident receiving healthcare services. Providers expressed a general discomfort amongst providers when asking clients and residents about their vulnerabilities and perceive there were limits to what providers could ask about medical conditions without violating a client or resident's privacy.

In FY 2024 and FY 2025, HRD's Planning and Partnerships continued working with home care and assisted living licensees and stakeholders to develop solutions to TB and IAPP noncompliance based off the systemic mapping findings. Stakeholders discussed strategies for simpler communications for providers that describe TB screen requirements, identified ways to reduce times an employee needs to retest, and supported portability of test results. HRD Planning and Partnerships is currently developing an IAPP resident resource sheet and a sample IAPP form for providers to use as an example tool.

Provider Feedback Questionnaire

The Health Regulation Division created the HRD Provider Feedback Questionnaire in collaboration with the long-term care trade associations at the end of FY 2023 as a part of HRD's commitment to improve its customer service experience. The HRD Provider Feedback Questionnaire is a Microsoft form with a series of questions and comment sections to enable nursing home, assisted living, and home care licensees an anonymous way to report back to HRD on their survey or investigation experiences. The provider feedback from the questionnaire is given to the HRD state and federal team managers to utilize for continuous improvement purposes.

The questionnaire link is given to the provider via email upon entrance, exit, and on the enforcement letter that accompanies correction orders. Critical feedback on individual staff members is addressed immediately with the supervisor (if staff are identified) and then the supervisor addresses the feedback with the staff member. Unless the provider identifies their facility or provides specific details about their investigation in their comments, it is anonymous.

From Oct. 1, 2023 (beginning of data collection), until the end of June 30, 2024, HRD collected 32 home care provider responses to the questionnaire. Home care providers generally agreed or strongly agreed that MDH staff gave the provider sufficient information during survey entrance conferences, treated the provider's staff, clients, and visitors with respect and dignity, and demonstrated knowledge about the regulatory legal requirements. Home care providers agreed or strongly agreed MDH staff offered the provider opportunities to submit additional documentation or information during the survey or investigation process.

Emerging Trends and Concerns

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.

Significant Decrease in Home Care Licensees Post-Assisted Living Licensure Implementation

The implementation of assisted living licensure on Aug. 1, 2021, led to substantial number of comprehensive home care providers converting to an assisted living license so they could continue to provide both the housing and services for their current residents. In FY 2021, home care licensees dropped from 1,640 in FY 2021 to 738 licensees in FY 2022, an estimated 55 percent decrease. As referenced under the Licensing Data section of this report, from FY 2022 to FY 2023, MDH had 789 fewer home care licensees or a 45% decrease in one fiscal year. The comprehensive home care licensees had the most significant change with 845 fewer licensees or a 57% decrease.

Preliminary FY 2024 data for the first three quarters supports this anticipated decline in home care licensees with only 810 total home care licensees, 464 of which are comprehensive home care

licensees. From FY 2022 to FY 2024, the number of MDH comprehensive home care licensees have decreased 69%.

MDH anticipates the number of home care licensees will continue to decline as more comprehensive home care licensees who converted to an assisted living license have their comprehensive home care license expire or close their home care license as they are no longer serving home care clients. It is unknown at this time what impact these license closures may have on access to home care services in Minnesota.

In order to align the DHS waiver reimbursement and MDH licensure requirements, a legislative solution to make reimbursement available to assisted living services providers or an exemption for comprehensive home care licensees from housing and services for CAC waiver recipients will likely be necessary.

No Sleeping Accommodations in Home Care Clarified

Prior to the Aug. 1, 2021, assisted living laws implementation under Minnesota Statutes, chapter 144G, comprehensive home care licensees were allowed to provide sleeping accommodations to their clients under a Housing with Services Registration. Since assisted living laws became effective law on Aug. 1, 2021, a healthcare provider wanting to provide services and housing to residents must be licensed as an assisted living facility. Despite this distinction in Minnesota Statutes, chapter 144G, there was still confusion regarding whether a comprehensive home care licensee could provide sleeping accommodations to their clients because Minnesota Statutes, chapter 144A was silent on the topic of sleeping accommodations.

The 2024 Minnesota Legislature clarified this issue by passing legislation under Minnesota Statutes, section 144A.471, subdivision 1a that reads, “A home care licensee must not provide sleeping accommodations as a provision of home care services…”. Home care licensees now have clear direction regarding the ability to provide housing for clients in their care. A home care licensee would need to apply for a provisional assisted living facility license and comply with all provisions of Minnesota Statutes, chapter 144G if the home care licensee wanted to be landlord to their clients.

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

[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

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 Minn. Stat. Chapter 13. The Advisory Council met six times in FY 2024.

The 2022 Minnesota Legislature increased the Advisory Council from eight to 13 members appointed by the Commissioner of Health. In FY 2023, Minnesota Statutes, section 144A.4799, subdivision 1 required the Commissioner to appoint 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 of a county health and human services or county adult protection office.
- One member from the Office of Ombudsman for Mental Health and Developmental Disabilities.
- One member from the Office of Ombudsman for Long-Term Care.

By the end of FY 2024, the Advisory Council had increased its membership to 13 members with only two vacancies, one home care licensee and one county health and human services or county adult protection member.

Minnesota Statutes, section 144A.474, subdivision 11(j) and Minnesota Statutes, section 144G.31, subdivision 8 requires monetary fines collected by MDH be deposited in a dedicated special revenue account. On an annual basis, the Advisory Council is required to make recommendations to the Commissioner and the balance in the special revenue account appropriated to the Commissioner to implement Advisory Council recommendations.

The Advisory Council drafted annual recommendations to the Commissioner of Health in FY 2024. The Advisory Council believes the Commissioner supporting the recommendations will enhance client/resident quality of care and streamline licensing and survey compliance so assisted living and

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.

home care providers understand regulatory expectations, and further promote public trust and confidence in MDH. The Advisory Council recommended the following:

- MDH should support a proactive approach with strategies to connect to providers in the community.
- A new provider training toolkit should be created to educate applicants to ensure a minimum level of baseline competency regarding the assisted living and home care licensing requirements before going into business providing care for residents or clients.
- MDH should support portability of employee training and administrative tasks, like tuberculosis (TB) testing, and if feasible and scientifically sound to do so, eliminated TB testing requirements for employees. MDH should recognize commercially purchased training packages that meet 144A and 144G licensing requirements and provide certificates of successful training completions an employee can take to a new employer as proof of non-facility training.
- MDH should create standardized forms that would be optional for assisted living and home care providers to utilize to help assure licensing survey compliance, including service plan, certain disclosures, reassessment, and Individual Abuse Prevention Plan (IAPP) forms.
- Duplicative non-facility specific training for certified unlicensed personnel (ULP) should be eliminated. If a ULP obtains and maintains a Certified Nursing Assistant (CNA) or Trained Medication Aide (TMA) certification and training requirements, assisted living and home care providers should not be expected to retrain these ULP employees on these competencies that are not specific to the facility, like basic medication administration procedures where their competency has already been verified by their certification.
- MDH should hold surveyor and provider joint training. The goal of this recommendation would be for surveyors and providers to be more on the same page when it comes to surveys. It is also hoped that interactions between surveyors and providers would be collaborative rather than punitive. Evaluation tools and guidance could be jointly developed and both sides could develop an understanding of the challenges of the other.
- The Council recommended MDH support of the formation of Council-led task force to help develop optional online educational course content and checklist to address the most cited correction orders, regulatory expectations, best practices, and strategies to improve compliance.

On behalf of the Advisory Council, MDH began the process of drafting a Request for Proposal (RFP) in late 2024 to acquire the services of an external entity to create educational forms, a digital toolkit, and joint training for surveyors and providers. It is anticipated a public bidding process to acquire these services to address the Advisory Council's recommendation will come to fruition in mid-2025. MDH's Health Regulation Division's Planning and Partnerships section was actively engaged with home care and assisted living stakeholders in 2024 and beyond through its collaborative safety project to identify the compliance challenges home care and assisted living providers are facing with TB and IAPP requirements and began creating further educational resources on these topics anticipated to be available to home care and assisted living providers in 2025.

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 or 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 Statutes, 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

The tag number is the identification number used to correlate to a specific Minnesota Statutes, chapter 144A licensing provision. The tag number is generated from federal software currently utilized by the HRD state licensing program and is the reference number home care licensees would refer to determine the specific statutory provision identified as noncompliant with their license. Reference to tag numbers can be found here: Exit Conference Attendance (State Evaluation 144A)

Top 10 Correction Orders

FY 2024 Comprehensive Home Care

TAG #	DESCRIPTION OF NONCOMPLIANCE	TAG FREQUENCY
1245	TB Infection Control	95
0860	Comprehensive Assessment and Monitoring	69
0815	Employee Records	68
0870	Content of Service Plan	64
0810	Individual Abuse Prevention Plan	49
0865	Service Plan, Implementation & Revisions	47
0265	Up-To-Date Plan/Accepted Standards Practice	46
0790	Quality Management	43
0920	Individualized Medication Mgt. Plan	42
1190	Required Annual Training	41

Top Ten Correction Orders

FY 2024 Basic Home Care

TAG #	DESCRIPTION OF NONCOMPLIANCE	TAG FREQUENCY
1245	TB Infection Control	18
0790	Quality Management	13*
0855	Basic Individualized Client Review/Monitoring	13*
0870	Content of Service Plan	13*
0815	Employee Records	12
0810	Individual Abuse Prevention Plan	11
1080	Contents of Client Record	10
0865	Service Plan, Implementation & Revisions	8
0440	Basic Home Care License Provider	6*
1170	Content of Orientation	6*
1220	Supervisor of Staff - Basic	6*