

Minnesota Enacts New Assisted Living Facility Law

July 2, 2019 – Dorsey Health Law

by Alex Stoflet and Neal N. Peterson

On May 22, 2019, Minnesota Governor Tim Walz signed a significant new assisted living licensure bill into law. Previously in Minnesota, assisted living facilities were required to register with the Minnesota Department of Health (the “Department”) but were not subject to facility licensure. The new law requires assisted living facilities to be licensed, with special licensing requirements for assisted living facilities with dementia care. The new law also provides broader consumer protections to the residents of assisted living facilities. The licensing requirements go into effect on August 1, 2021. Some of the consumer protections go into effect on August 1, 2019 and others go into effect on January 1, 2020. Below is a highlight of some of the requirements from the new law.

I. Licensing Requirements

A. Assisted Living Facilities

Under the new law, assisted living facilities must be licensed by August 1, 2021 and must pay a licensing fee of \$2000 plus \$75 per resident for initial license application and each annual renewal, subject to potential adjustments of up to 10% based on the proportion of residents receiving certain home and community-based waiver services in the prior year. In addition to providing information regarding the operations of the facility, in order to be granted a license, managerial officials and owners of assisted living facilities must successfully undergo a background study. New applicants must first apply for a provisional license that lasts one year. During that time, the Department will complete a survey of the facility. If the facility is in substantial compliance with the survey requirements, then the Department will issue a license to the facility. The license must be renewed every year.



Related Capabilities

- Healthcare & Life Sciences
- Healthcare Transactions & Regulations
- Healthcare Litigation
- Medical Devices

In addition to the requirements under the old law to be registered as an assisted living facility, the new minimum requirements for assisted living facilities include:

- Distributing to residents the assisted living bill of rights
- Using person-centered planning and service delivery
- Giving residents the ability to furnish and decorate their unit
- Permitting residents access to food at any time, with meals and snacks meeting certain minimum nutritional requirements
- Giving residents the right to choose their visitors and the times of visits
- Giving residents the right to choose their roommate if sharing a unit
- Giving residents the right to have and use a lockable door to the resident's unit

Some of these and other requirements may be restricted in certain circumstances if appropriate for the particular resident and documented in their service plan. Assisted living facilities must at least have a temporary service plan for each resident in place prior to a resident moving in, must assess and implement a service plan within fourteen days of beginning to provide services to a resident, and must regularly reassess and revise the service plan thereafter. Assisted living facilities must also have assisted living contracts in place with residents that meet certain requirements, must retain records for each resident who is receiving services, and must provide orientation and training to all staff on the licensing requirements and regulations. Both licensed and unlicensed staff are required to meet certain minimum requirements, and the assisted living facilities must ensure that minimum supervision and availability requirements are met. If an assisted living facility is offering medication management services or treatment and therapy management services, additional requirements apply. These are just highlights of some of the requirements, of which there are many specified in the new law.

B. Assisted Living Facilities with Dementia Care

All assisted living facilities with dementia care must be licensed by August 1, 2021. The licensing fee for an assisted living facility with dementia care is \$3000 plus \$100 per resident for initial license application and each annual renewal, subject to potential adjustments of up to 10% based on the proportion of residents receiving certain home and community-based waiver services in the prior year. Assisted living facilities with dementia care must comply with the previously mentioned requirements of assisted living facilities in addition to other requirements. Each facility must demonstrate that it has the ability to provide services to residents with dementia either by showing the facility has experience managing residents with dementia or showing its compliance history in operating a care facility that is licensed or registered under federal or state law. If the facility does not have the necessary experience, they must employ a consultant with expertise in providing care for residents with dementia for the first six months of operation. The director of an assisted living facility with dementia care must complete at least ten hours of continuing education per year related to the care of individuals with dementia. Additionally, special requirements related to staffing, training, policies, and resident services must all be met for assisted living facilities with dementia care.

II. Consumer Protections

The new assisted living law in Minnesota offers broad consumer protections to the residents of assisted living facilities. Beginning on August 1, 2021, all residents must receive a copy of the assisted living bill of rights. These rights include a right to:

- Appropriate care and services
- Refuse care and services
- Participate in care and service planning
- Courteous treatment
- Freedom from maltreatment
- Individual autonomy
- Confidentiality of records
- Furnish and decorate
- Choose roommate
- Access food
- Access counsel and advocacy services



The new law allows residents or their representatives to place an electronic monitoring device in a resident's unit. Residents must notify the facility and receive the consent of their roommate (if they have one) before placing an electronic monitoring device. However, a resident may place an electronic monitoring device without notifying the facility for up

to fourteen days. This provision goes into effect on January 1, 2020.

Additionally, the new law prohibits assisted living facilities from retaliating against a resident or an employee for filing a complaint, making an inquiry, or asserting a right. The retaliation provision goes into effect on August 1, 2019.

The new assisted living facility law marks a new era of regulation for assisted living facilities in Minnesota, bound to have significant effects on entities and individuals operating assisted living facilities as well as residents living in them. If you have further questions about this new law, please contact the authors or your regular Dorsey attorney.

The text of the new assisted living licensure law can be found on the website of the Minnesota Office of the Revisor of Statutes [here](#).

Summer Associate Laura Kvasnicka provided substantial assistance researching and drafting this blog post.