

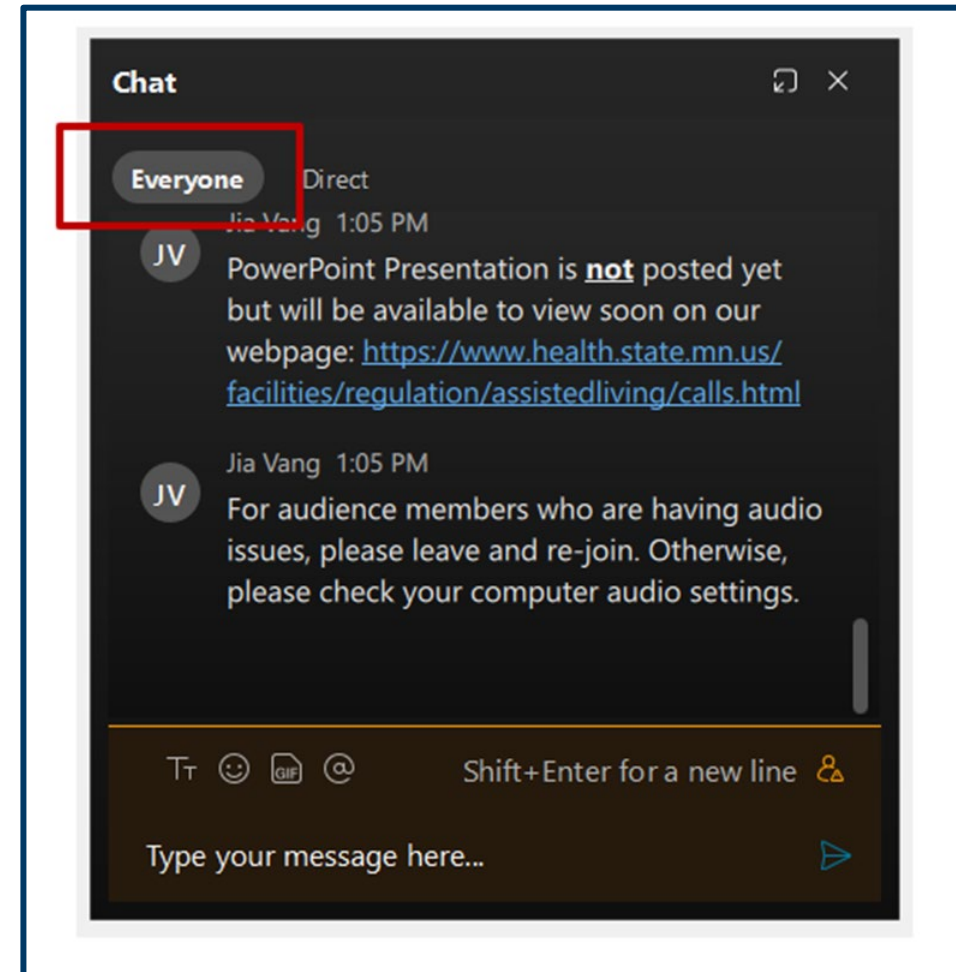


# Assisted Living Quarterly Update

May 22, 2025

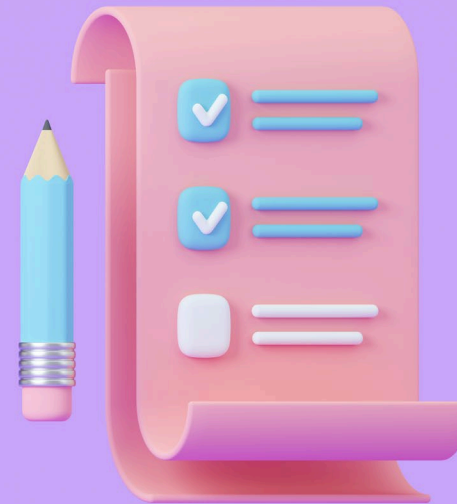
# How to Ask a Question.

- **Participants are muted.**
- **To ask a question**, click on the chat bubble to open the chat, select “Everyone”, and ask a question or provide a comment. Messages sent privately may not be addressed due to logistics.
- We will answer as many questions as we can at the end of our time today.



# Agenda

- Legislative Update
- Licensing Update
- Complaint Trends
- Survey Trends
- Reconsideration Update
- Waivers/Variances
- MDH Continuous Improvement





# Legislative Update

Jill Freudenwald | Agency Policy Specialist

## Current Assisted Living Policy Language:

- Clarifies assisted living director affiliation.
- Aligns licensure requirements with the Life Safety Code.
- Repeals 144G.9999 regarding a task force that has expired.
- Requires the department to add a 12-month waiting period after denial of a provisional license before a new application can be submitted.
- Requires a two-hour fire barrier between any licensed and unlicensed areas of the building.

## What's Next?

- The 2025 Legislative Session adjourned on Monday, May 19.
- A special session will be called to finish the work and pass a budget.
- When session is finalized, MDH will share more (i.e., newsletter, Webex) about what was passed into law.





# Licensing Update

Rachel Gacioch | LCR Operations Manager

# ALF and ALFDC\* Counts by year

	2021	2022	2023	2024	**2025
ALF	1462	1548	1633	1595	1683
ALFDC	591	599	611	609	604
<b>Total</b>	<b>2053</b>	<b>2147</b>	<b>2244</b>	<b>2204</b>	<b>2287</b>

\*Includes ALF, PALF, ALFDC and PALFDC

\*\*CY 2025 data ranges January - March 2025



# Change Of Ownership (CHOW) Counts

	2021	2022	2023	2024	**2025
CHOWS	12	72	57	88	12

\*Includes Changes of Ownership for ALF and ALFDC licenses.

\*\*CY 2025 data ranges January - March 2025.

# License Closure Numbers

	2021	2022	2023	2024	*2025
AL Closures	24	133	133	167	7

Common reasons for closure include low census, financial issues, and transition to other license types including CRS/245D.

\*CY 2025 data ranges January - March 2025.



# Relocation of an Assisted Living License

Effective  
**March 15, 2025,**  
assisted living facilities  
meeting certain criteria are  
eligible to continue operating  
under an existing license  
(144G.195) at a new location.



# Eligibility for a Relocation of an Existing License

A current assisted living facility or an assisted living facility with dementia care licensee may apply for a relocation of their existing licensee as of March 15, 2025, if the current licensee meets three criteria:

1. Five or fewer resident capacity;
2. New facility location is in the same municipality or a contiguous municipality; and
3. Relocation may occur one time in the previous three-year period.

# Applications For Relocation-Now Available

- The Relocation of Existing Assisted Living License Application (PDF) (<https://www.health.state.mn.us/facilities/regulation/assistedliving/docs/forms/relocatelic.pdf>) is available on the MDH website.
- Applications and supporting documentation can be submitted to the Facility and Provider Licensing System (<https://hrdlicensing.web.health.state.mn.us/#/>).



# Relocation Timeline – Not a 30-day process

MDH has 30 days to grant or deny the relocation application after the application is complete and fee paid, but the entire process for the licensee could take several months.

- A license who meets criteria to relocate will need to obtain all required documentation for the new physical location, which includes the Certificate of Occupancy from the City or Department of Labor and Industry (DLI)---this could take several weeks.
- Licensees must still give residents 60 days notice of the relocation after the relocation to the new location is approved and follow all closure procedures for the prior facility location.



## If Approved (1/2)

- If your application to relocate an assisted living facility is approved, you will receive a notice from the MDH. These will include submitting the following for the new location:
  - ✓ Certificate of Workers Compensation Insurance Coverage
  - ✓ Evidence of Liability Insurance Coverage
  - ✓ Updated Uniform Disclosure of Assisted Living Services and Amenities (UDALSA) form
  - ✓ A copy of the relocation plan
  - ✓ A copy of the written notice to be given to residents, designated representatives, legal representatives, and family or other resident contacts.
- Documents should be submitted to: [health.assistedliving@state.mn.us](mailto:health.assistedliving@state.mn.us)

## If Approved (2/2)

- MDH will review these documents and work with you to establish a date for relocation in compliance with section 144G.55 Subd. 3.
- MDH will then issue a new license certificate reflecting this date and the new facility address. Do NOT relocate prior to the date indicated on the license certificate.
- When complete, submit the Submit [Notice of Completed Relocation | Assisted Living Providers \(PDF\)](https://www.health.state.mn.us/facilities/regulation/assistedliving/docs/forms/alnoticecomplete.pdf) (<https://www.health.state.mn.us/facilities/regulation/assistedliving/docs/forms/alnoticecomplete.pdf>).

Questions about Relocation?

Email:

[health.assistedliving@state.mn.us](mailto:health.assistedliving@state.mn.us)

# Reimbursement Issues

- Contact MDH if you are ENROLLED with DHS but are having issues with reimbursement due to license status.
- Common issues impacting license status include:
  - Renewal application is submitted but not completed prior to license expiration.
  - Provisional license has expired while awaiting a grant or deny determination based on the initial survey.
- Questions related to license status and impact on reimbursement may be sent to: [health.assistedliving@state.mn.us](mailto:health.assistedliving@state.mn.us)
- For question about enrollment, visit: [DHS | Minnesota Health Care Programs \(MHCP\) Provider Resource Center \(https://mn.gov/dhs/partners-and-providers/contact-us/minnesota-health-care-programs/providers/\)](https://mn.gov/dhs/partners-and-providers/contact-us/minnesota-health-care-programs/providers/).



# Complaint Trends

Matt Heffron | Operations Manager

# Requirement for Summoning Assistance

Minn. Stat. 144G.41, Subd. 1, states all assisted living facilities must:

- "provide a means for residents to request assistance for health and safety needs 24 hours per day, seven days per week".
- The obligation is to provide a means; no specific method is required.
- The resident being able to yell for help is not compliant.
- The resident's ability to use the device is part of both your assessment (how to meet the requirement) and our evaluation (scope and level of the violation).

# Right to Come and Go

The assisted living bill of rights indicates "Residents have the right to enter and leave the facility as they choose. This right may be restricted only as allowed by other law and consistent with a resident's service plan."

- When an assisted living facility has a secured dementia care unit, residents who are assessed to require a secured unit **must be provided** a secured units.
- Residents who do not require a secured unit must have their right to come and go respected; the facility must ensure that right without compromising the security of the secured unit.



# Bedrail Considerations

- Bed rails and similar assistive devices continue to be a concern; these devices create a risk of entanglement and strangulation and can increase the severity of falls.
- In addition, these devices can have the effect of being a restraint.
- There are **two different types of bedrails** MDH encounters:
  - Hospital bed rails
  - Consumer bed rails

# Hospital Beds

Hospital beds are designed for use in health care settings.

As a result, they are medical devices regulated by the Food and Drug Administration (FDA).



- Numerous types of side rails, grab bars, and similar devices can be installed on any other type of bed.
- As equipment, these are regulated by the Consumer Product Safety Commission (CPSC).
- **The same risks exist.**

# General Principles

- For hospital beds, follow the FDA guidelines for bed rail safety, assess whether the device is appropriate for the individual, and educate the individual on the risks versus benefits of the device.
- For other assistive devices attached to beds.
  - Know whether the device has been recalled by the CPSC and whether the device is installed according to manufacturer's guidelines.
  - Assess whether the device is appropriate for the resident or client, considering cognitive and physical status.
  - Educate the resident on the risks versus benefits of the device.

# Manufacturer Guidelines

- The diversity of potential consumer devices makes it critical to know how the device was designed to be used.
- The licensee must be able to determine whether it was installed correctly, which means the licensee needs to have those instructions or guidelines.
- If the licensee does not have the manufacturer guidelines available, the license cannot fully determine whether the device was installed correctly or what the risks may be in using it.

# Assessment (1/2)

- For both hospital beds and consumer beds, documented assessments are critical.
- Care planning about bed rails should start with the intended purpose of the device based on individual needs.
  - Cognitive status.
  - Physical strength and mobility and fall history.
  - Incontinence and toileting needs.
- It must not have the effect of being an unordered restraint.

- Risks versus benefits:
  - Consider resident preferences and how they use the device.
  - Individualized assessment of risks.
- Document education of the resident and their family of the risks.



- The assessment should include physical inspection of the stability and condition of the device, and potential areas for entanglement.
  - The device must be securely attached to remain safe.
  - Gaps between the mattress and the device are usually risks.
  - Describe areas with openings large enough for a body part to be trapped.



# Assisted Living Survey Correction Order Data & Update

Amy Hyers | Regional Operations Manager

# FY 2025 Q2 (Oct-Dec 2024)

## Assisted Living Survey Data

TAG	Correction Order Type	COUNT
0810	Fire Protection & Physical Environment: Fire Safety and Evacuation Plans	192
0480	Minimum requirements: MN Food Code	184
0680	Disaster planning and emergency preparedness	157
0780	Fire Protection & Physical Environment: Smoke Alarms	138
0800	Fire Protection & Physical Environment: Maintenance/Good Repair	135
1620	Initial reviews, assessments, and monitoring	105
0660	Tuberculosis prevention and control	99
1640	Service plan, implementation and revisions to	83
0470	Minimum requirements: Assisted Living Bill of Rights	75
1890	Prescription drugs	73

# Mental Illness and De-escalation Training

**Effective July 1, 2025** - All assisted living facilities must train facility staff in mental illness and de-escalation content (in addition to dementia training).

The requirement:

- Two (2) hours of initial training on mental illness and de-escalation training and
- One (1) hour of training on topics related to mental illness and de-escalation for each 12 months of employment thereafter.

[Minnesota Statutes, chapter 144G.63, subdivision 4](https://www.revisor.mn.gov/statutes/cite/144G.63#stat.144G.63.4)

<https://www.revisor.mn.gov/statutes/cite/144G.63#stat.144G.63.4>

[Minnesota Statutes, chapter 144G.64 \(https://www.revisor.mn.gov/statutes/cite/144G.64\)](https://www.revisor.mn.gov/statutes/cite/144G.64)





## Physical Environment Survey, 0775 Tag

Bob Dehler, P.E. | Engineering Manager



# Top 0775 Tag Issues

## Top violations (0775)

- Smoking
- Locking
- Carbon Monoxide Alarms/Detectors
- Fire Rated Doors



Each assisted living facility must comply with the State Fire Code in Minnesota Rules, Chapter 7511.

## **Safe Smoking**

- Facility is responsible for safety of residents.
- Smoking outside is generally ok. Make sure cigarettes disposed of properly. MDH will cite for disposing butts on ground, mulch, rocks, deck, etc. Need an ashtray and/or receptacle to dump used cigarettes.
- Engineering will cite if there is evidence of careless use of cigarettes in the building. Many times, staff had observed cigarette butts on the carpet or holes in carpet from cigarette burns.
- Smoking in garages is usually not safe due to storage of gasoline and combustibles in the garage.



## Locking in accordance with MN Fire Code

- Fire code section 1010.1.9.7 details 11 requirements to lock doors in the means of egress (special locking).
- Egress control locking system shall have the capability of being unlocked by a switch.
- Procedure to operate the door locking system written down and trained as part of FSEP.
- 1010.2 GATES, Gates used as a component in a means of egress shall conform to the requirements for doors. Gate shall unlock on alarm.

# 0775 Tag - Carbon Monoxide Alarms/Detectors

## Carbon Monoxide Alarms

### **Larger facilities:**

- Generally, see CO detectors at source.
- If apartment has gas fired appliances, CO alarm in that room.

### **Small facilities (single family house):**

- CO alarms on every floor and outside of every sleeping area in vicinity of the sleeping rooms.
- CO alarms in every room with CO producing appliance (gas fireplace, stove, etc.)

For SFM guidance, [Carbon monoxide detection in residential occupancies | Minnesota Department of Public Safety \(https://dps.mn.gov/divisions/sfm/fire-code/fire-code-information-topic/carbon-monoxide-detection-residential-occupancies\)](https://dps.mn.gov/divisions/sfm/fire-code/fire-code-information-topic/carbon-monoxide-detection-residential-occupancies).

# 0775 Tag - Fire Rated Doors

## Fire rated doors:

- Cannot block or wedge fire rated doors open. Fire rated doors protect residents and prevent the migration of fire and smoke.
- 705.2.3, Door closers shall be maintained. Cannot remove closers.





# Reconsideration Data

Ben Hanson | Reconsideration Unit Supervisor

# Reconsideration Process

## Start to Finish

MDH receives the reconsideration request and evaluates the request for timeliness.

MDH Reconsideration Analysts then:

- Review the submissions, statements of deficiencies, and the survey/investigation file in PC.
- May reach out to surveyor for help locating important pieces of evidence, clarification on a finding, or other information particular to the survey/investigation. Will offer the surveyor/supervisor opportunity to provide their perspective of the case.
- May reach out to supervisor or manager for clarification on HRD policies and practices regarding evaluations and citations.

MDH will provide a written response to the licensee regarding the reconsideration determination.

# Commonly Contested Correction Orders

- 820 (14), 800 (10), and 810 (10) – Fire protection/physical environment
- License Denials (14)
- 1290 (13) – Background Studies\*
- 970 (10) – Waivers of Liability\*
- 2310 (10) – Care and Services
- 680 (9) – Emergency Preparedness\*
- 470 (8) – Staffing Plan\*

# Most Frequent Licensee Arguments in the Reconsideration Request

- The facts do not support the correction order findings (82).
- The facts cited in the 2567 are not supported by the evidence (68).
- Go easy on us! (67).
- The facility had the necessary documentation to show compliance at time of survey (28).
- The correction order was issued at an incorrect scope and severity (24).
- The facility made corrections to deficiency after the survey (23).



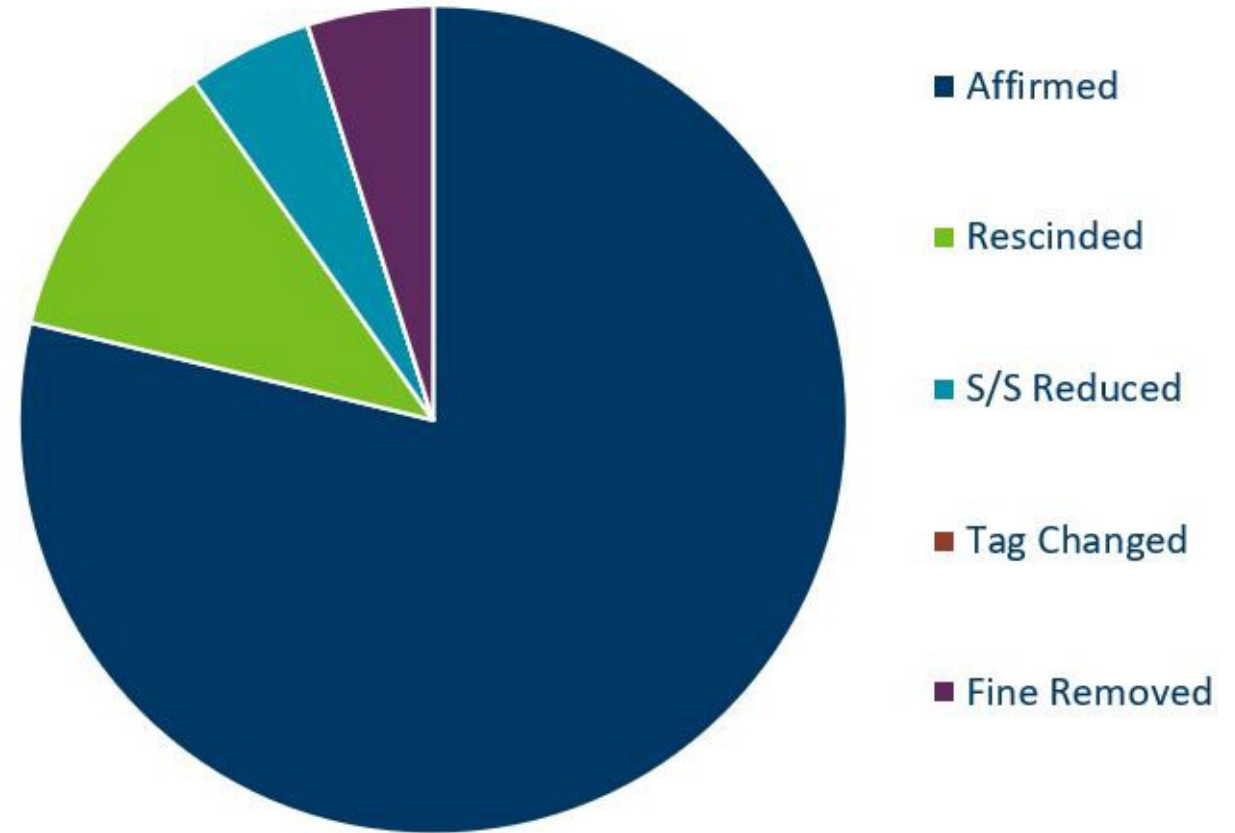
# Reconsideration Outcomes

## Reconsideration Outcomes 2024

- Tags Reviewed: 245

### Outcomes

- Affirmed: 193 (78.76%)
- Rescinded: 28 (11.42%)
- S/S Reduced: 12 (4.9%)
- Tag Changed: 0
- Fine Removed: 12 (4.9%)







# Waivers & Variances

Daphne Ponds | State Executive Operations Manager

# What is the Purpose of a Waiver or Variance?

The purpose of a waiver or variance is to provide a mechanism for an entity that is either currently not compliant with the law or wishes to deviate from existing legal standards with a way to ask for reasonable flexibility to be noncompliant with a particular statute or rule.

If an entity is compliant with the law, a variance from the law is not necessary.

Assisted living facility licensees may ask MDH to waive or vary from certain provisions of Minn. Stat. 144G or Rule Chapter 4659.

- MDH may only grant a waiver or variance under a particular law or rule if MDH has authority to do so and does so according to certain criteria.

# Assisted Living Licensure Waivers and Variances

- [144G.45 \(4\)](#) Variance or Waiver
- [144G.81\(5\)](#) Variance or Waiver
- [144G.33](#) Innovation Variances
- [4659.0060](#) Variance





# 144G.45 & 144G.81 Waiver Requests (1/2)

The waiver request must be based topics in 144G.45/144G.81, which are mostly addresses physical environment design and fire safety requirements, including Life Safety Code and FGI.

MDH must consider the following when deciding to grant a waiver:

- (1) whether the waiver will adversely affect the health, treatment, comfort, safety, or well-being of a resident;
- (2) whether the alternative measures to be taken, if any, are equivalent to or superior to those permitted under section 144G.81, subdivision 5;
- (3) whether compliance with the requirements would impose an undue burden on the facility;

# 144G.45 & 144G.81 Waiver Requests (2/2)

## Pro Tips for a Successful Waiver Request:

- Make sure the request is something MDH can grant. The request must be an item addressed under Minn. Stat. 144G.45 or 144G.81.
- Avoid "blanket requests" like asking to not comply with the all of the Life Safety Code (LSC) and all of the FGI. Be specific about what provisions of the LSC or FGI the licensee would like MDH to consider.
- Identify what alternative measures the licensee has already taken that are equivalent or superior to what is being requested to waive.

# 144G.33 Innovation Variance (1/2)

Under Minn. Stat. 144G.33, MDH may grant an innovation variance to allow an assisted living facility to offer **services** of a type or in a manner that is:

- Innovative,
- Will not impair the services provided,
- Will not adversely affect the health, safety, or welfare of the residents, and
- Is likely to improve the services provided.

The innovative variance cannot change any of the resident's rights under the assisted living bill of rights.

# 144G.33 Innovation Variance (2/2)

Pro Tip for a Successful Innovation Variance Request:

- The variance request must be related to **services** the licensee is provided.
- Recommend addressing alternative staffing models and service lines provided by the licensee and/or operating in the assisted living facility building. Examples:
  - Nursing home staff replacing the assisted living staffing during a particular shift.
  - Other license types or non-assisted living offices in the building (i.e., adult daycare, home care/hospice/PT offices).

# 4659.0060 Rule Variance

The rule variance request must address a rule under Chapter 4659.

MDH must consider the following when evaluating a rule variance:

- Whether granting the variance will impair the services provided,
- Whether granting the variance will adversely affect the health, safety, or welfare of residents, or impact residents' rights under Minnesota Statutes, chapter 144G, including the assisted living bill of rights.

Pro Tip for a Successful Rule Variance Request:

- The request must address a *rule*, not a statute.



Total waivers and variances submitted by assisted living licensees:

Thirty-three (33)

- 144G.45/144G.81 waivers – twenty (20)
- Innovation variance (144G.33) – nine (9)
- Rule variance – four (4)

# Waiver and Variances Data

## CY 2024 MDH Decisions

### MDH Decisions (All waivers/variances):

- Approved – eleven (11)
- Approved in part, Denied in part – three (3)
- Denied – eighteen (18)
- Not applicable – one (1) – non-licensee submission

# Waivers and Variance Data

CY 2025 (Jan 1-May 12)

Total waivers and variances submitted by assisted living licensees:

Twenty-six (26)

- 144G.45/144G.81 waivers – eight (8)
- Innovation variance (144G.33) – fifteen (15)
- Rule variance – three (3)

# Waiver and Variance Data

## CY 2025 (Jan 1-May 12) MDH Decisions

### MDH Decisions (All waivers/variances):

- Approved – twelve (12)
- Denied – eighteen (18)
- Under review – six (6)

# Waiver and Variance Data

## CY 2025 (Jan 1-May 12) MDH Decisions, Continued

### **Innovation variance**

- Approved (4)
- Denied (5)

### **Rule Variance**

- Denied (3) – no rule cited-wrong form
- Not applicable (1)

### **Waiver**

- Approved (7)
- Denied (10)
- Approved/Denied in part (3)



# MDH Continuous Improvement

Daphne Ponds | State Executive Operations Manager

# Continuous Improvement Highlights

MDH is engaged in a continuous and ongoing effort to achieve measurable improvements in efficiency, effectiveness, performance, outcomes, and other indicators of quality.

The MDH Health Regulation Division (HRD) promotes continuous improvement within the Division with assisted living licensure and regulation through:

- Data
- Feedback
- Training/Support

# Continuous Improvement through Data

## Licensing, Survey, and Maltreatment Data

Examples of the data that may be reviewed includes:

- Licensing data
- Licensing correction orders
- Complaint allegations/incidents
- Maltreatment determinations (substantiated, inconclusive, not substantiated)
- Correction order and complaint investigation timeliness



# Continuous Improvement through Data

## Reconsideration Data

State HRD Management Team conducts reviews of reconsideration determinations to analyze decisions with licensing correction orders and maltreatment determinations to:

- Find lessons learned
- Determine areas of improvement
- Allow for better in-time training for staff, etc.

# Continuous Improvement through Feedback

## Stakeholder Communication

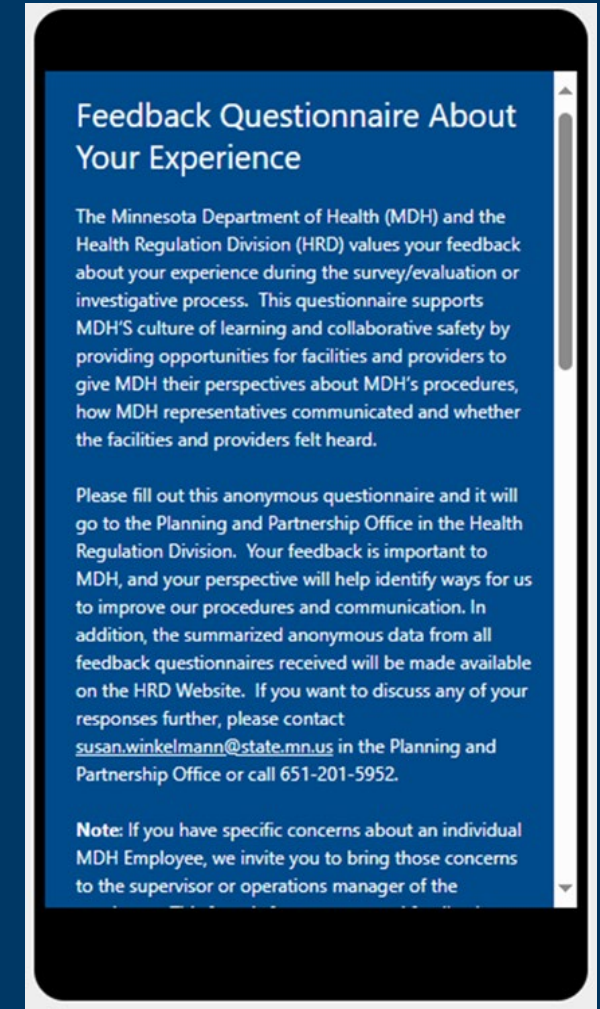
HRD routinely meets with a variety of stakeholder groups that represents the interests of assisted living licensees, residents and their families and other agencies that impact assisted living. Examples include:

- Long-term care trade associations
- Consumer advocate organizations
- Ombudsman representatives
- Health-licensing boards
- Department of Human Services

# Continuous Improvement through Feedback

## Provider Feedback Questionnaire

- HRD's Commitment to Improve the Customer Service Experience
- Questionnaire link given to the provider via email upon entrance, exit, and on the enforcement letter.
- Feedback provided to teams and used as a part of the HRD continuous improvement process.
- Critical feedback is addressed immediately with supervisor (if staff are identified).
- Unless the provider identifies their facility or provides specific details about their survey or investigation in the comments, it is anonymous.



**Feedback Questionnaire About Your Experience**

The Minnesota Department of Health (MDH) and the Health Regulation Division (HRD) values your feedback about your experience during the survey/evaluation or investigative process. This questionnaire supports MDH'S culture of learning and collaborative safety by providing opportunities for facilities and providers to give MDH their perspectives about MDH's procedures, how MDH representatives communicated and whether the facilities and providers felt heard.

Please fill out this anonymous questionnaire and it will go to the Planning and Partnership Office in the Health Regulation Division. Your feedback is important to MDH, and your perspective will help identify ways for us to improve our procedures and communication. In addition, the summarized anonymous data from all feedback questionnaires received will be made available on the HRD Website. If you want to discuss any of your responses further, please contact [susan.winkelmann@state.mn.us](mailto:susan.winkelmann@state.mn.us) in the Planning and Partnership Office or call 651-201-5952.

**Note:** If you have specific concerns about an individual MDH Employee, we invite you to bring those concerns to the supervisor or operations manager of the

# Continuous Improvement Training/Support Resources

MDH-HRD has a Training and Quality Improvement Department to support HRD staff education and internal QI initiatives.





# Request for Proposal Announcement

Daphne Ponds | HCALP Advisory Council Chair

# Home Care and Assisted Living Program Advisory Council Request for Proposal (RFP)

On May 19, 2025, MDH posted a Request for Proposal (RFP) on behalf of the HCALP Advisory Council. The RFP requests proposals to provide the expertise, experience, and knowledge to meet three goals:

- Creation of statutorily correct forms and training materials.
- Creation of a Provider Digital Toolkit for Minnesota Home Care and Minnesota Assisted Living providers.
- Providing joint trainings in coordination with Minnesota Home Care and Assisted Living surveyors and providers to share the information and processes of goal 1 and 2, including any current statutory updates at the time of the trainings.



- The RFP posting will close on June 10 at 4:31 p.m.
- The website page for those interested in bidding on the RFP is found here: [PT Solicitation Postings Automated | OSP](#).
- Event ID is: 2000017158



# Thank you!

[health.assistedliving@state.mn.us](mailto:health.assistedliving@state.mn.us)