..... moves to amend H.F. No. 2407 as follows:

Page 1, after line 5, insert:

"ARTICLE 1

RIGHT TO A DESIGNATED SUPPORT PERSON"

Page 2, after line 15, insert:

"ARTICLE 2

DEPARTMENT OF HEALTH POLICY

Section 1. Minnesota Statutes 2024, section 144.0724, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Assessment reference date" or "ARD" means the specific end point for look-back periods in the MDS assessment process. This look-back period is also called the observation or assessment period.

(b) "Case mix index" means the weighting factors assigned to the case mix reimbursement classifications determined by an assessment.

(c) "Index maximization" means classifying a resident who could be assigned to more than one category, to the category with the highest case mix index.

(d) "Minimum Data Set" or "MDS" means a core set of screening, clinical assessment, and functional status elements, that include common definitions and coding categories specified by the Centers for Medicare and Medicaid Services and designated by the Department of Health.

(e) "Representative" means a person who is the resident's guardian or conservator, the person authorized to pay the nursing home expenses of the resident, a representative of the

Office of Ombudsman for Long-Term Care whose assistance has been requested, or any other individual designated by the resident.

(f) "Activities of daily living" or "ADL" includes personal hygiene, dressing, bathing, transferring, bed mobility, locomotion, eating, and toileting.

(g) "Patient Driven Payment Model" or "PDPM" means a case mix classification system for residents in nursing facilities based on the resident's condition, diagnosis, and the care the resident is receiving based on data supplied in the facility's MDS for assessments with an ARD on or after October 1, 2025.

~~(g)~~ (h) "Nursing facility level of care determination" means the assessment process that results in a determination of a resident's or prospective resident's need for nursing facility level of care as established in subdivision 11 for purposes of medical assistance payment of long-term care services for:

(1) nursing facility services under chapter 256R;

(2) elderly waiver services under chapter 256S;

(3) CADI and BI waiver services under section 256B.49; and

(4) state payment of alternative care services under section 256B.0913.

(i) "Resource utilization groups" or "RUG" means a system for grouping a nursing facility's residents according to the resident's clinical and functional status identified in data supplied by the facility's minimum data set with an ARD on or prior to September 30, 2025.

Sec. 2. Minnesota Statutes 2024, section 144.0724, subdivision 3a, is amended to read:

Subd. 3a. **Resident case mix reimbursement classifications.** (a) Resident case mix reimbursement classifications shall be based on the Minimum Data Set, version 3.0 assessment instrument, or its successor version mandated by the Centers for Medicare and Medicaid Services that nursing facilities are required to complete for all residents. Case mix reimbursement classifications shall also be based on assessments required under subdivision 4. Assessments must be completed according to the Long Term Care Facility Resident Assessment Instrument User's Manual Version 3.0 or a successor manual issued by the Centers for Medicare and Medicaid Services. On or before September 30, 2025, the optional state assessment must be completed according to the OSA Manual Version 1.0 v.2.

(b) Each resident must be classified based on the information from the Minimum Data Set according to the general categories issued by the Minnesota Department of Health, utilized for reimbursement purposes.

Sec. 3. Minnesota Statutes 2024, section 144.0724, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically submit to the federal database MDS assessments that conform with the assessment schedule defined by the Long Term Care Facility Resident Assessment Instrument User's Manual, version 3.0, or its successor issued by the Centers for Medicare and Medicaid Services. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments required under the Omnibus Budget Reconciliation Act of 1987 (OBRA) used to determine a case mix reimbursement classification include:

(1) a new admission comprehensive assessment, which must have an assessment reference date (ARD) within 14 calendar days after admission, excluding readmissions;

(2) an annual comprehensive assessment, which must have an ARD within 92 days of a previous quarterly review assessment or a previous comprehensive assessment, which must occur at least once every 366 days;

(3) a significant change in status comprehensive assessment, which must have an ARD within 14 days after the facility determines, or should have determined, that there has been a significant change in the resident's physical or mental condition, whether an improvement or a decline, and regardless of the amount of time since the last comprehensive assessment or quarterly review assessment. Effective October 1, 2025, a significant change in status assessment is also required when isolation for an infectious disease has ended. If isolation was not coded on the most recent OBRA assessment completed, then the significant change in status assessment is not required. The ARD of this assessment must be set on day 15 after isolation has ended;

(4) a quarterly review assessment must have an ARD within 92 days of the ARD of the previous quarterly review assessment or a previous comprehensive assessment;

(5) any significant correction to a prior comprehensive assessment, if the assessment being corrected is the current one being used for reimbursement classification;

(6) any significant correction to a prior quarterly review assessment, if the assessment being corrected is the current one being used for reimbursement classification; and

(7) any modifications to the most recent assessments under clauses (1) to (6).

(c) On or before September 30, 2025, the optional state assessment must accompany all OBRA assessments. The optional state assessment is also required to determine reimbursement when:

(1) all speech, occupational, and physical therapies have ended. If the most recent optional state assessment completed does not result in a rehabilitation case mix reimbursement classification, then the optional state assessment is not required. The ARD of this assessment must be set on day eight after all therapy services have ended; and

(2) isolation for an infectious disease has ended. If isolation was not coded on the most recent optional state assessment completed, then the optional state assessment is not required. The ARD of this assessment must be set on day 15 after isolation has ended.

(d) In addition to the assessments listed in paragraphs (b) and (c), the assessments used to determine nursing facility level of care include the following:

(1) preadmission screening completed under section 256.975, subdivisions 7a to 7c, by the Senior LinkAge Line or other organization under contract with the Minnesota Board on Aging; and

(2) a nursing facility level of care determination as provided for under section 256B.0911, subdivision 26, as part of a face-to-face long-term care consultation assessment completed under section 256B.0911, by a county, tribe, or managed care organization under contract with the Department of Human Services.

Sec. 4. Minnesota Statutes 2024, section 144.0724, subdivision 7, is amended to read:

Subd. 7. **Notice of resident case mix reimbursement classification.** (a) The commissioner of health shall provide to a nursing facility a notice for each resident of the classification established under subdivision 1. The notice must inform the resident of the case mix reimbursement classification assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, the opportunity to request a reconsideration of the classification, and the address and telephone number of the Office of Ombudsman for Long-Term Care. The commissioner must transmit the notice of resident classification by electronic means to the nursing facility. The nursing facility is responsible for the distribution of the notice to each resident or the resident's representative. This notice must be distributed within three business days after the facility's receipt.

(b) If a facility submits a modified assessment resulting in a change in the case mix reimbursement classification, the facility must provide a written notice to the resident or

the resident's representative regarding the item or items that were modified and the reason for the modifications. The written notice must be provided within three business days after distribution of the resident case mix reimbursement classification notice.

Sec. 5. Minnesota Statutes 2024, section 144.0724, subdivision 9, is amended to read:

Subd. 9. **Audit authority.** (a) The commissioner shall audit the accuracy of resident assessments performed under section 256R.17 through any of the following: desk audits; on-site review of residents and their records; and interviews with staff, residents, or residents' families. The commissioner shall reclassify a resident if the commissioner determines that the resident was incorrectly classified.

(b) The commissioner is authorized to conduct on-site audits on an unannounced basis.

(c) A facility must grant the commissioner access to examine the medical records relating to the resident assessments selected for audit under this subdivision. The commissioner may also observe and speak to facility staff and residents.

(d) The commissioner shall consider documentation under the time frames for coding items on the minimum data set as set out in the Long-Term Care Facility Resident Assessment Instrument User's Manual or on or before September 30, 2025, the OSA Manual version 1.0 v.2 published by the Centers for Medicare and Medicaid Services.

(e) The commissioner shall develop an audit selection procedure that includes the following factors:

(1) Each facility shall be audited annually. If a facility has two successive audits in which the percentage of change is five percent or less and the facility has not been the subject of a special audit in the past 36 months, the facility may be audited biannually. A stratified sample of 15 percent, with a minimum of ten assessments, of the most current assessments shall be selected for audit. If more than 20 percent of the case mix reimbursement classifications are changed as a result of the audit, the audit shall be expanded to a second 15 percent sample, with a minimum of ten assessments. If the total change between the first and second samples is 35 percent or greater, the commissioner may expand the audit to all of the remaining assessments.

(2) If a facility qualifies for an expanded audit, the commissioner may audit the facility again within six months. If a facility has two expanded audits within a 24-month period, that facility will be audited at least every six months for the next 18 months.

(3) The commissioner may conduct special audits if the commissioner determines that circumstances exist that could alter or affect the validity of case mix reimbursement classifications of residents. These circumstances include, but are not limited to, the following:

(i) frequent changes in the administration or management of the facility;

(ii) an unusually high percentage of residents in a specific case mix reimbursement classification;

(iii) a high frequency in the number of reconsideration requests received from a facility;

(iv) frequent adjustments of case mix reimbursement classifications as the result of reconsiderations or audits;

(v) a criminal indictment alleging provider fraud;

(vi) other similar factors that relate to a facility's ability to conduct accurate assessments;

(vii) an atypical pattern of scoring minimum data set items;

(viii) nonsubmission of assessments;

(ix) late submission of assessments; or

(x) a previous history of audit changes of 35 percent or greater.

(f) If the audit results in a case mix reimbursement classification change, the commissioner must transmit the audit classification notice by electronic means to the nursing facility within 15 business days of completing an audit. The nursing facility is responsible for distribution of the notice to each resident or the resident's representative. This notice must be distributed by the nursing facility within three business days after receipt. The notice must inform the resident of the case mix reimbursement classification assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, the opportunity to request a reconsideration of the classification, and the address and telephone number of the Office of Ombudsman for Long-Term Care.

Sec. 6. Minnesota Statutes 2024, section 144A.61, is amended by adding a subdivision to read:

Subd. 3b. **Commissioner approval of curriculum for medication administration.** The commissioner of health must review and approve curriculum for the training of medication administration by unlicensed personnel that meet the requirements in Minnesota Rules, part 4658.1360, subpart 2, item B. Significant updates or amendments, including but not limited

to changes to the standards of practice to the curriculum, must be approved by the commissioner.

Sec. 7. Minnesota Statutes 2024, section 144A.61, is amended by adding a subdivision to read:

Subd. 3c. **Approved curricula.** The commissioner must maintain a current list of acceptable medication administration curricula to be used for medication aide training programs for employees of nursing homes and certified boarding care homes on the department's website that are based on current best practice standards and meet the requirements of Minnesota Rules, part 4658.1360, subpart 2, item B.

Sec. 8. Minnesota Statutes 2024, section 144A.70, subdivision 3, is amended to read:

Subd. 3. **Controlling person.** "Controlling person" means a business entity or entities, officer, program administrator, or director, whose responsibilities include the management and decision-making authority to establish or control business policy and all other policies of a supplemental nursing services agency. Controlling person also means an individual who~~, directly or indirectly, beneficially owns an~~ has a direct ownership interest or indirect ownership interest in a corporation, partnership, or other business association that is ~~a controlling person~~ the registrant.

Sec. 9. Minnesota Statutes 2024, section 144A.70, is amended by adding a subdivision to read:

Subd. 3a. **Direct ownership interest.** "Direct ownership interest" means an individual or legal entity with at least five percent equity in capital, stock, or profits of the registrant or who is a member of a limited liability company of the registrant.

Sec. 10. Minnesota Statutes 2024, section 144A.70, subdivision 7, is amended to read:

Subd. 7. **Oversight.** The commissioner is responsible for the oversight of supplemental nursing services agencies through ~~semiannual~~ unannounced surveys every two years and follow-up surveys, complaint investigations under sections 144A.51 to 144A.53, and other actions necessary to ensure compliance with sections 144A.70 to 144A.74.

Sec. 11. Minnesota Statutes 2024, section 144A.70, is amended by adding a subdivision to read:

Subd. 8. **Indirect ownership interest.** "Indirect ownership interest" means an individual or legal entity with a direct ownership interest in an entity that has a direct or indirect ownership interest of at least five percent in an entity that is a registrant.

Sec. 12. Minnesota Statutes 2024, section 144G.10, subdivision 1, is amended to read:

Subdivision 1. **License required.** (a)(1) Beginning August 1, 2021, no assisted living facility may operate in Minnesota unless it is licensed under this chapter.

(2) No facility or building on a campus may provide assisted living services until obtaining the required license under paragraphs (c) to (e).

(b) The licensee is legally responsible for the management, control, and operation of the facility, regardless of the existence of a management agreement or subcontract. Nothing in this chapter shall in any way affect the rights and remedies available under other law.

(c) Upon approving an application for an assisted living facility license, the commissioner shall issue a single license for each building that is operated by the licensee as an assisted living facility and is located at a separate address, except as provided under paragraph (d) or (e). If a portion of a licensed assisted living building is utilized by an unlicensed entity or an entity with a different license type not granted under this chapter, the licensed assisted living facility must ensure there is at least a vertical two-hour fire barrier constructed in accordance with the National Fire Protection Association Standard 101 (Life Safety Code) between any licensed assisted living areas and unlicensed entity areas of the building and between the licensed assisted living areas and any licensed areas subject to another license type.

(d) Upon approving an application for an assisted living facility license, the commissioner may issue a single license for two or more buildings on a campus that are operated by the same licensee as an assisted living facility. An assisted living facility license for a campus must identify the address and licensed resident capacity of each building located on the campus in which assisted living services are provided.

(e) Upon approving an application for an assisted living facility license, the commissioner may:

(1) issue a single license for two or more buildings on a campus that are operated by the same licensee as an assisted living facility with dementia care, provided the assisted living

facility for dementia care license for a campus identifies the buildings operating as assisted living facilities with dementia care; or

(2) issue a separate assisted living facility with dementia care license for a building that is on a campus and that is operating as an assisted living facility with dementia care.

Sec. 13. Minnesota Statutes 2024, section 144G.10, subdivision 1a, is amended to read:

Subd. 1a. **Assisted living director license required.** Each assisted living facility must employ an assisted living director licensed or permitted by the Board of Executives for Long Term Services and Supports and be affiliated as the director of record with the board.

Sec. 14. Minnesota Statutes 2024, section 144G.10, subdivision 5, is amended to read:

Subd. 5. **Protected title; restriction on use.** (a) Effective January 1, ~~2026~~ 2027, no person or entity may use the phrase "assisted living," whether alone or in combination with other words and whether orally or in writing, to: advertise; market; or otherwise describe, offer, or promote itself, or any housing, service, service package, or program that it provides within this state, unless the person or entity is a licensed assisted living facility that meets the requirements of this chapter. A person or entity entitled to use the phrase "assisted living" shall use the phrase only in the context of its participation that meets the requirements of this chapter.

(b) Effective January 1, ~~2026~~ 2027, the licensee's name for ~~a new~~ an assisted living facility may not include the terms "home care" or "nursing home."

Sec. 15. Minnesota Statutes 2024, section 144G.16, subdivision 3, is amended to read:

Subd. 3. **Licensure; termination or extension of provisional licenses.** (a) If the provisional licensee is in substantial compliance with the survey, the commissioner shall issue a facility license.

(b) If the provisional licensee is not in substantial compliance with the initial survey, the commissioner shall either: (1) not issue the facility license and terminate the provisional license; or (2) extend the provisional license for a period not to exceed 90 calendar days and apply conditions necessary to bring the facility into substantial compliance. If the provisional licensee is not in substantial compliance with the survey within the time period of the extension or if the provisional licensee does not satisfy the license conditions, the commissioner may deny the license.

(c) The owners and managerial officials of a provisional licensee whose license is denied are ineligible to apply for an assisted living facility license under this chapter for one year following the facility's closure date.

Sec. 16. Minnesota Statutes 2024, section 144G.81, subdivision 1, is amended to read:

Subdivision 1. **Fire protection and physical environment.** An assisted living facility with a dementia care ~~that has a secured dementia care unit~~ license must meet the requirements of section 144G.45 and the following additional requirements:

(1) ~~a hazard vulnerability~~ an assessment ~~or~~ of safety ~~risk~~ risks must be performed on and around the property. The ~~hazards indicated~~ safety risks identified by the facility on the assessment must be ~~assessed and~~ mitigated to protect the residents from harm. The mitigation efforts must be documented in the facility's records; and

(2) the facility shall be protected throughout by an approved supervised automatic sprinkler system by August 1, 2029.

Sec. 17. Minnesota Statutes 2024, section 148.235, subdivision 10, is amended to read:

Subd. 10. **Administration of medications by unlicensed personnel in nursing facilities.** Notwithstanding the provisions of Minnesota Rules, part 4658.1360, subpart 2, a graduate of a foreign nursing school who has successfully completed an approved competency evaluation under the provisions of section 144A.61 is eligible to administer medications in a nursing facility upon completion of ~~a~~ any medication training program for unlicensed personnel approved by the commissioner of health under section 144A.61, subdivision 3b, or offered through a postsecondary educational institution, which meets the requirements specified in Minnesota Rules, part 4658.1360, subpart 2, item B.

Sec. 18. **REPEALER.**

Minnesota Statutes 2024, section 144G.9999, subdivisions 1, 2, and 3, are repealed."

Amend the title accordingly