DEPARTMENT OF HEALTH

Annual Legislative Report: Minnesota Home Care Licensing

REPORT TO THE MINNESOTA LEGISLATURE FOR FISCAL YEAR 2023

Annual Legislative Report: Minnesota Home Care Licensing

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Executive Summary

Since July 1, 2015, state law has required the Commissioner of Health to submit an annual report to the Minnesota Legislature about licensed home care providers providing services to Minnesotans. This legislative report contains, among other things, the home care provider data outlined in statute for fiscal year (FY) 2023.

The Minnesota Department of Health (MDH) Health Regulation Division (HRD) regulated 948 home care licenses in FY 2023, which is 789 (45%) fewer home care licensees than FY 2022 due to many comprehensive home care licensees converting to an assisted living license. MDH calculated completion of 648 home care surveys or 82% of existing home care licensees in a three-year survey cycle (FYs 2021-2023). MDH issued 151 home care correction orders in FY 2023. Compliance with tuberculosis (TB) prevention and control was the top licensing violation. MDH-HRD received one request for reconsideration for a home care licensing order in FY 2023.

MDH received 920 home care provider complaints containing 1,284 maltreatment and 920 compliance allegations in FY 2023. Self-neglect was the most reported maltreatment allegation. Noncompliance with nursing service requirements was the most reported compliance violation. MDH conducted 126 home care investigations with non-federally certified home care providers and 96 home health agency investigations related to compliance violations with comprehensive home care providers with federal certification.

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.

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 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 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, 2022, to June 30, 2023, or FY 2023. 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 organizational redesign in FY 2022 to State Evaluation. In FY 2023, State Evaluation was responsible for conducting home care licensing surveys, and the Office of Health Facility Complaints (OHFC), 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 2023. The home care licensing application fees are $2,100 for a basic home care license and $4,200 for a comprehensive home care license.

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

MDH regulated 948 home care licenses in FY 2023, which included 640 comprehensive, 43 basic, 159 home health agency, 82 temporary comprehensive and 82 temporary basic home care licenses. In FY 2022, MDH regulated 1,737 home care licensees, 1,485 of which were comprehensive home care providers. 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. Again, the decrease is due to many home care licenses converting to assisted living under the new Assisted Living Licensure program.

Survey Data

Survey 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 aforementioned assisted living licensure implementation and significant decline in the number of home care licenses, MDH has

experienced an ongoing cycle of recalculation and reprioritization of home care surveys over the past three years. However, despite the ever-changing number of home care licensees, MDH believes it has made significant progress in meeting its statutory three-year mandate when viewed against the context of the past five fiscal years.

In FY 2018, MDH licensed 1,205 state home care providers and completed 212 home care surveys for all state home care license types. At that time, HCALP needed to survey at least 402 home care providers per year to keep on track with 3-year survey cycle but completed only 53% of all home care survey work that year. In the same year, HCALP surveyed only 118 comprehensive and no basic home providers, thus, only 29% of routine surveys were completed.

From FY 2019 to FY 2020, HCALP was largely limited to surveying temporary comprehensive home care providers with a 90-day survey requirement and mandated licensing-orders follow-up visits due to insufficient HCALP staffing to meet the survey workload demands. During this time, most existing home care licensees did not receive a routine survey for several years.

In FY 2021 and FY 2022, MDH conducted 482 and 110 home care surveys respectively. Since FY 2022, the heavy demand for MDH to complete over 2,000 assisted living surveys within a two-year survey cycle and hundreds of home care license closures has contributed to ongoing reprioritization of home care surveys. In FY 2023, MDH conducted 56 home care surveys for all state-licensed, non-federally certified provider types, which included 11 comprehensive, 7 temporary basic, and 38 temporary comprehensive home care surveys, thus, MDH completed 648 surveys in a three-year survey cycle (FY 2021, 2022, 2023).

The closure of 835 home care licenses from FY 2021 to FY 2023 makes it difficult to ascertain timeliness with surveys when a significant number have closed their licenses, thus, removing the licenses from the three-year survey cycle. However, from a mathematic standpoint, MDH completed 648 surveys in three years (FYs 2021-2023) and with 789 state-licensed, non-federally certified licensees in FY 2023, it could be estimated MDH completed approximately 82% of its home care survey workload with a three-year survey cycle.

Survey Correction Orders Issued

MDH issued 151 home care correction orders in FY 2023 due to licensing violations found during routine home care surveys. 139 of those correction orders were issued to comprehensive home care providers and 12 to basic. Of the 151 correction orders issued to basic and comprehensive home care providers, tuberculosis (Tb) infection control (19), content of service plan (10), comprehensive assessment and monitoring (8), quality management (7), and documentation of medication set-up (7) 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 920 home care provider complaints in FY 2023 with nine of those allegations against basic providers, 741 comprehensive, 169 home health care agencies, and one temporary comprehensive. A complaint may contain more than one allegation against a provider, thus, there may be more allegations than complaint reports submitted. The 920 home care license complaints contained 1,284 maltreatment allegations. For vulnerable adults, the maltreatment allegations were caregiver neglect (546), financial exploitation in a nonfiduciary relationship (204), emotional or mental abuse (193), self-neglect (145), physical abuse (99), financial exploitation in a fiduciary relationship (50), sexual abuse (25) and not categorized (1). For child maltreatment, MDH received allegations of neglect (10), physical abuse (5), sexual abuse (4), and not categorized (2).

The 920 home care licensee complaints also contained 260 licensing compliance allegations. The largest number of those compliance allegations were related to federal deficiencies with certified home care agencies (135). The top five compliance allegations related to state home care licensure were as follows: nursing services (24), not categorized (17), billing (14), medication management (12), and client rights and grievances (10).

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 licensee, MDH state 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, MDH state licensed provider 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 2023 complaint allegations received, MDH investigated 126 home care provider complaints or approximately 14% of total complaints received. There were 96 home health agency investigations related to compliance with federal certification, 19 maltreatment investigations, and 11 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 2023, MDH received only one (1) home care provider request for reconsideration of a licensing correction order. There were no requests for reconsideration received related to maltreatment. For the one request of reconsideration received, MDH rescinded the correction order finding.

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 2023, 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 and three supervisor FTEs for oversight in FY 2023.

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 2023, State Rapid Response had 30 nurse investigator FTEs for all state-licensed, non-federally certified licensee investigations. Home care investigations comprised 14% of total complaint investigation workload, thus, 4.2 FTEs of State Rapid Response nurse investigator resources were allocated to home care complaints in FY 2023.

Current and Planned Improvement Projects

1. 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.

2. Collaborative Systems Change

For more than five years, MDH has noted the persistent home care trend of provider noncompliance with TB Prevention and Control and Individual Abuse Prevention Plan (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, MDH-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.

These systemic mapping sessions outcomes were shared with HRD staff, providers, and stakeholders.

3. MDH-HRD Organizational Redesign Adds Data and Quality Improvement Resources

In FY 2022, HRD implemented a plan to redesign its organizational structure to better align its licensing and regulation workloads enable more productive, efficient work. The organization redesign also added positions to the organizational structure that were perceived as gaps in HRD achieving higher standards of performance when working towards its goals of continuous process improvement for its licensing programs, thereby, strengthening public protection. HRD Shared Services section added a training and quality FTEs with one manager, three trainers, two data analysists, and one continuous quality improvement position. The HRD redesign efforts also created a section known as Planning and Partnerships, adding outreach and engagement manager and analyst positions to support strengthening relationships with licensees, stakeholders, and consumers impacted by MDH-HRD licensure programs. Throughout FY 2023, the aforementioned positions were in various stages of development, vacancy, and fulfillment, but as of mid-FY 2024, all but one position (data analyst) had its FTE filled.

4. Survey and Complaint Web Postings

In FY 2023, HRD initiated a project to ensure survey and complaint results were more easily accessible to Minnesotans. Prior to this project, MDH search tools for MDH licensed facility survey and complaint results were separated multiple ways. For example, there was one landing page for nursing home and boarding care surveys and a different one for assisted living and home care surveys. A third page existed for complaint results, and this page would only search for complaints by investigation findings, so that a search could be conducted for all substantiated findings or inconclusive or not substantiated.

Three separate searches needed to be done to find all complaint results for a single facility or group of facilities.

The new search tool allows the public to access complaint and survey results for a facility or group of facilities with a single search. The new search tool is searchable by geographic location, such as all facilities within a city or county. It is also searchable by provider name or health facility id number (HFID). It can be set by date ranges or facility type. It provides a single location which returns investigation results for nursing homes, assisted living facilities, hospitals, boarding care homes, supervised living facilities, hospice provides, and home care providers, as well as routine evaluation results for the main provider types (nursing homes, assisted living facilities, and home care providers).

This new tool was made available to the MDH partners, such as the Office of Ombudsman for Long Term Care (OOLTC), in mid-2023. After some additional refinements, it will be made available to the public in fall of 2024.

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.

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

The implementation of assisted living licensure on August 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% 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.

2. Misalignment of DHS Waiver Reimbursement with MDH Licensure Changes

The Minnesota Department of Human Services (DHS) manages the Home and Community-Based Services (HCBS) waiver programs under the authority of the Minnesota Legislature, whereby DHS obtains permission from the federal government to offer services that exceed limitations of the regular Minnesota Medicaid program but do not exceed the comparable cost of institutionalization. DHS waiver programs make broader services available to Minnesotans that would otherwise be unmet by Medical Assistance. One of the HCBS waiver programs is the Community Alternative Care (CAC) Waiver for chronically ill and medically fragile people who require hospital-level care. CAC waiver recipients are able to receive hospital-level services, like ventilator or tracheostomy care, in the community rather than an institutionalized setting.

Prior to the August 1, 2021, Assisted Living Licensure implementation, there were dozens of MDH licensed comprehensive home care providers who exclusively cared for ventilator-dependent CAC waiver recipients in a licensee owned building. At that time, state law did not prohibit comprehensive home care providers from providing both the housing and complex nursing services for CAC waiver recipients. However, as of August 1, 2021, state law required comprehensive home care providers who wanted to continue to provide housing and complex nursing services to obtain an assisted living license to be compliant. Minnesota Statutes, section 144G.08, subdivision 7 defines an assisted living facility is the provision of sleeping accommodations [housing] and services to one or more adults. While housing requirements for an MDH comprehensive home care and assisted living licensees changed, the CAC waiver program reimbursement restrictions for providers did not.

The CAC waiver program reimbursement is, in part, tied to Minnesota Statutes, section 256B.0654, subdivision 1(a) that defines complex home care nursing as *"home care nursing services provided to recipients who meet the criteria for regular home care nursing and require life-sustaining interventions to reduce the risk of long-term injury or death."* The current statutory interpretation is that complex nursing services under a CAC waiver may only be reimbursed to a provider who has a valid MDH comprehensive home care license. Assisted living licensees will not be reimbursed for complex nursing services under current CAC waiver requirements.

This statutory interpretation conflicts with the Minnesota Statutes, chapter 144G definition of an assisted living facility putting the provider and Minnesotans who need complex nursing services in a in a lose-lose situation. This conflict in the law causes the provider either make the decision to forego providing this complex nursing services in the community because they are unable be reimbursed for the care provide under an assisted living license OR continue to provide housing and services to CAC waiver recipients under a comprehensive home care license that leaves them noncompliant with state law. If providers do decide to forgo providing complex nursing services in the community, Minnesotans receiving CAC waiver benefits may need to return to an institutionalized setting for care.

To order to align the DHS waiver reimbursement and MDH licensure requirements, a legislative solution to make reimbursement available assisted living services providers or an exemption for

comprehensive home care licensees from housing and services for CAC waiver recipients will likely be necessary.

Home Care Provider Advisory Council

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

The Advisory Council is organized according to Minnesota Statutes, section 144A.4799, subdivision 1, and MDH pays Council members a per diem and costs incurred within the limits of available appropriations. MDH hosts quarterly Council meetings that are open to the public as required by Minnesota Statutes, chapter 13. The Advisory Council met four times in FY 2023.

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 2023, the Advisory Council still had several open positions. At the time of this report (FY 2024), the Advisory Council had increased its membership to 11 members with only two vacancies,

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

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. By the end of FY 2023, the special revenue account was just under $3 million dollars. The Advisory Council had not submitted annual recommendations to the Commissioner in FY 2023, but some special revenue account funds were utilized for special projects recommended by the Advisory Council.

During the COVID-19 public health emergency, the Commissioner gave the Advisory Council approval to fund home care and assisted living providers to promote social connection of vulnerable adults residing in home care and assisted living provider settings. The Advisory Council provided grants up to $5,000 for each applicant selected. The funds were used by the applicant to purchase devices to assist with virtual visits designated for social connection. The funds were also used for assistance with improving Wi-Fi or assisting with training and staffing for use of the devices purchased. After scoring 95 grant applications, the Advisory Council approved 35 social connection grants.

Appendices

APPENDIX A

Glossary of Home Care Licensing Terms

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

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

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

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

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

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