



# Nursing Homes, Assisted Living Facilities, and Assisted Living Facilities with Dementia Care

The MN Department of Health  
regulatory differences and similarities.



# Speaker Bio



Michael is Minnesota's top state-licensed physical environment subject matter expert. He is one of the few responsible for creating the assisted living physical environment program and the Minnesota Department of Health team that oversees plan reviews, inspections, and surveys. He has been a licensed architect in Minnesota since 2013 and was the first-ever architect hired by the Minnesota Department of Health. He is passionate about ensuring Minnesota care providers are successful in developing and maintaining physical environments that enable health, safety, and well-being for those they serve.



**Michael Mireau, Licensed Architect**

**Founder - *The Source Assisted Living Consultants LLC***

Assisted Living & Healthcare Physical Environment Expert,  
MN's #1 Regulatory, Compliance, and Licensing Consultant

# Objectives

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- Identify the key Minnesota statutes and administrative rules that govern physical environment licensure requirements for assisted living facilities and nursing homes.
- Describe the major differences and similarities in physical environment requirements between assisted living and nursing home licensure in Minnesota.
- Apply and evaluate the Minnesota Department of Health's licensing, regulatory, and compliance requirements for existing and future healthcare buildings.

Follow the code path!

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What is considered  
assisted living in Minnesota?

# DOES ANYONE NEED A TRANSLATOR?

$$(x + a)^n = \sum_{k=0}^n \binom{n}{k} x^k a^{n-k}$$

**Assisted  
Living**



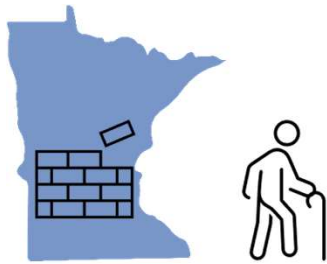
- Conversion
- Provisional
- ALF
- ALFDC (I-2)
- Residential Board & Care Occupancy
- Healthcare (Limited Care)
- 5 or fewer resident facilities (R-3)
- Small facilities (6-16 residents) (R-4)
- Large facilities (17+ residents) (I-1)
- Enhanced Care
- Memory Care

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# The Current Assisted Living Landscape

# New Assisted Living Regulations in MN

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A New Law Passed

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in 2019

(MN Statute 144G)



Enforcement started

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in 2021



# LET'S COMPARE

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- Prior to 8/1/2021: Housing with Services (HWS) MN Statute 144D
- 8/1/2021: Assisted Living Licensure MN Statute 144G

## Conversion

(Converted from HWS to new AL License):

- ALF or ALFDC
- Already have an HFID
- Time period to convert is passed
- Considered existing, non-conforming

## Provisional

(New license after 8/1/21):

- Provisional ALF or provisional ALFDC
- Issued a new HFID after completing an application
- Every new ALF or ALFDC moving forward



# LET'S COMPARE

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## **ALF** – Assisted Living Facility

- A facility that provides sleeping accommodations and assisted living services to one or more adults.
- 3 categories
  - 5 or fewer residents
  - 6-16 residents
  - 17+ residents

## **ALFDC** – Assisted Living Facility with Dementia Care

- A licensed assisted living facility that is advertised, marketed, or otherwise promoted as providing specialized care for individuals with Alzheimer's disease or other dementias. A secured dementia care unit must be licensed as an ALFDC.
- Can be any # of residents

# LET'S COMPARE



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## Facility Size

### 5 residents or less

R-3 occupancy (single-family home size)  
MN Statute 144G.45, Subd. 1-3 only

### 6-16 residents

R-4 occupancy  
144G.45, Subd.1-5  
Life Safety Code (Chapter 32 – small facilities)  
FGI design requirements

### 17+ residents

I-1 occupancy  
144G, Subd.1-5  
Life Safety Code (Chapter 32 – large facilities)  
FGI design requirements

### Dementia Care (any size)

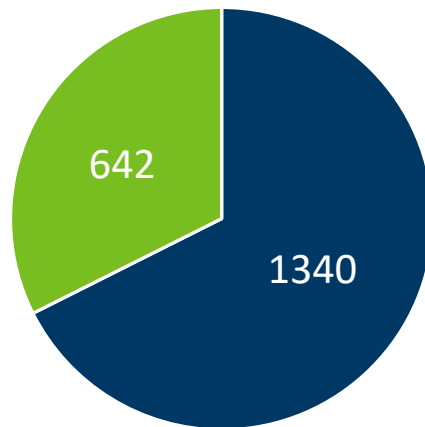
I-2 occupancy  
144G  
Life Safety Code  
(Chapter 18 – healthcare)  
FGI requirements

# License Data – ALF & ALFDC

\* Data through 1/9/2022

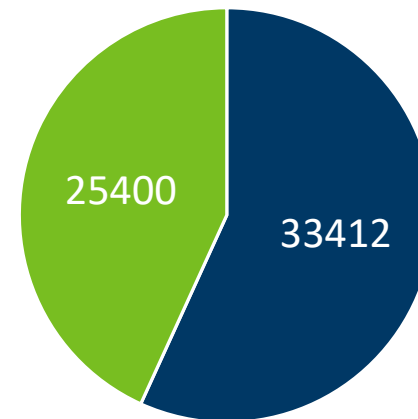


**FACILITY COUNT  
by Region**



■ 7-County Metro ■ Outstate

**OCCUPANT CAPACITY  
by Region**



■ 7-County Metro ■ Outstate

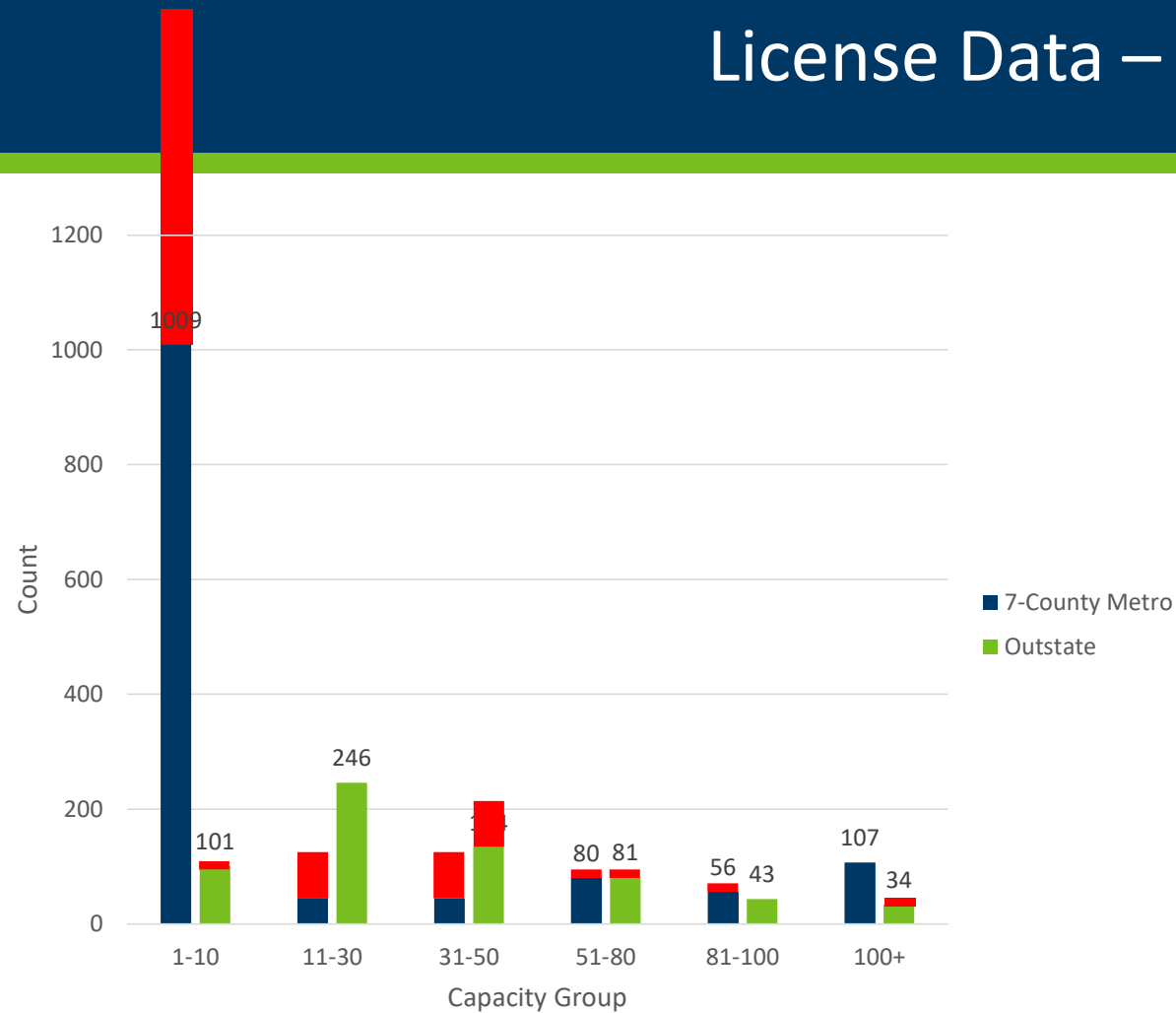
~+1200  
New  
Licenses  
Applications

~5,000  
RESIDENTS

~3,200 total facilities

# License Data – ALF & ALFDC

\* Data through 1/9/2022



## Assisted Living | 10+ Year LOOK AHEAD



Projected 100,000+ additional 80+ yrs old (from the MN State Demographer)

### CURRENT FACILITY SIZE BREAKDOWN

- ~53% 5 residents or less facilities
- ~19% 6 - 16 residents (small)
- ~28% 17+ residents (large)
- 64% Metro
- 36% Out-State
- ~26% Dementia Care Facilities
  - ~67% of all residents are in ALFDC's\*

\*This includes non-dementia care residents living in ALFDC's.

### PROJECTED NEED (50% of 100,000+ 80+ yr olds)

- 26,500 residents (5,300 [5 or less] facilities)
- 9,500 residents (594 small facilities)
- 14,000 residents (140 large facilities)
- 32,000 residents (Metro)
  - 3,392 = 5 or less facilities
  - 380 = small facilities
  - 90 = large facilities
- 18,000 residents (Out-State)
  - 1,908 = 5 or less facilities
  - 214 = small facilities
  - 50 = large facilities

~3,200 total facilities

As of today,  
only 2,347 facilities

Total facilities still needed:  
~6,000

ALFDC's needed:  
~750 (all sizes)

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What is considered  
a nursing home in Minnesota?

# CONFUSED YET?

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$$(x + a)^n = \sum_{k=0}^n \binom{n}{k} x^k a^{n-k}$$

**Nursing  
Home**



- SNF (Skilled Nursing Facility) - Medicare
- NF (Nursing Facility) – Medicaid
- SNF/NF
- Short-Term Rehab
- LTCF (Long-Term Care Facility)
- Care Center
- TCU (Transitional Care Unit)
- Post-Acute Care Facility
- Residential Care Center
- Rehab Center
- Memory Care

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# The Current Nursing Home Landscape



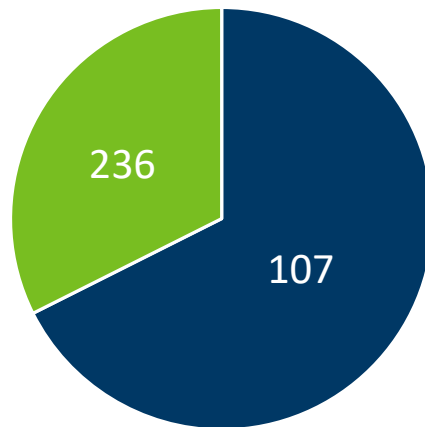
# License Data – Nursing Homes

\* Data through 8/28/2025



**FACILITY COUNT  
by Region**

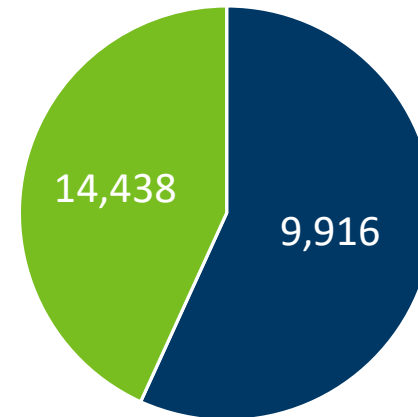
343 total  
licenses



■ 7-County Metro ■ Outstate

**BED CAPACITY  
by Region**

24,354 total  
beds\*



■ 7-County Metro ■ Outstate

\*Not all beds are currently available. Some are on layaway.

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Can someone license a NEW  
nursing home in MN?



No



# NURSING HOME MORATORIUM

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- MN Statute 144A.071, Subd. 2

## **Moratorium.**

(a) The commissioner of health, in coordination with the commissioner of human services, shall deny each request for new licensed or certified nursing home or certified boarding care beds

- No new nursing home licenses
- No more licensed beds



# MORATORIUM EXCEPTION PROCESS

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- Nursing homes can still renovate, expand SF, or “move”
- Bed increases are not allowed unless purchased from another NH
- Thresholds for project sizes:
  - Under \$1,000,000– reimbursement not affected
  - Between \$1,000,000 and \$2,421,908 – not required to apply for exception
  - Over \$2,421,908 – approval required



<https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html>

# THE STATE OF NURSING HOMES

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- Nursing homes aren't very profitable
- REITS or Companies that own many NH can turn a profit.
  - Still not much money for updates, renovations, etc.
- Hard to operate and provide good care for 1 or 2 off facilities
- Construction is expensive, partly because of regulation (MEP, EE)



# THE STATE OF NURSING HOMES

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- Institutional
- Depressing
- 1-3 year life expectancy
- CMS reimbursements aren't much
- Demanding work for staff
- No system in place to allow nursing homes to thrive.
- How do we change? Do we care?





## WHAT'S THE SOLUTION?

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- Assisted living with dementia care licenses
  - No cap on licenses
  - Still a huge need for 10+ years
  - ALFDC's are required to be built like nursing homes.... sort-of



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# Nursing Home Physical Environment Regulations



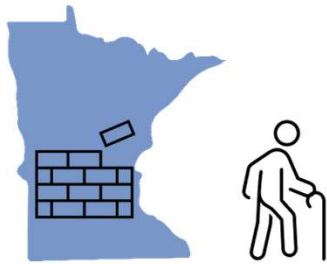
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What government entity is responsible for regulating Skilled Care Facilities?



# Nursing Home Regulations in MN (MDH)

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MN Rules 4658

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Last updated  
In 1995



CMS Certification

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2012 LSC

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Are nursing homes required to comply  
with the FGI in Minnesota?



No



# WHO'S ON FIRST!?! ---



## **State** – Nursing Home **License**

- MN Statute 144A
- MN Rules 4658
  - Physical environment requirements

## **Federal** – Skilled Care Facility **Certification**

- Required if receiving Medicare/Medicaid
- SOM (State Operations Manual)
  - Issued by CMS
  - Governs certification of Skilled Care Facilities
  - Appendix P – Long Term Care
  - Appendix PP – LTC Interpretive Guidelines
  - Appendix I – Life Safety Code Surveys
  - Appendix Z – Emergency Preparedness

## STATE - MN RULES 4658

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- Resident room size and design requirements
- Toilet room requirements
- Dining, dayroom, and activity floor area requirements
- Building elements:
  - Handrails, drinking fountains, etc.
- Commercial kitchens regs.
- MEP requirements



# STATE - MN RULES 4658

- Construction details
- Existing and new requirements
- Fire alarms
- Nurse call systems
- Rehab services
- Waivers are allowed for many parts of the Rules

<https://www.revisor.mn.gov/rules/4658/>

## Nursing Home Rules (Department of Health)

4605.7000 – .7090, 4638.0200, 4658, 6800.6100 – .6800  
*Extracted from Minnesota Rules  
(in effect as of February 2022)*



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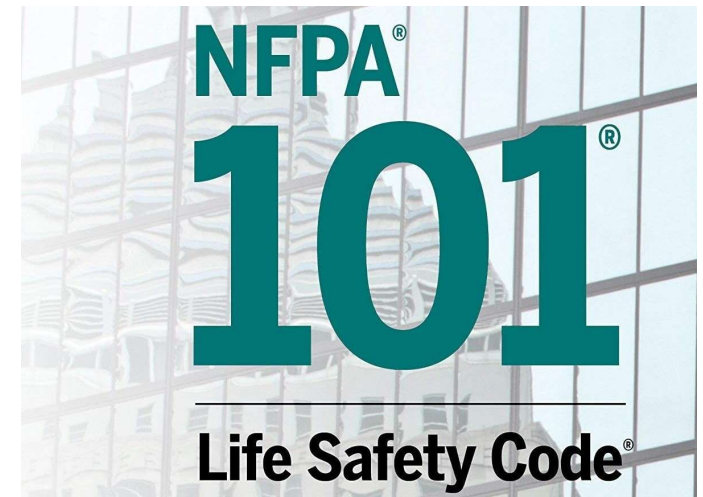
The Office of Revisor of Statutes  
700 State Office Building  
St. Paul, MN 55155

## FEDERAL - LIFE SAFETY CODE

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- 2012 NFPA 101 Life Safety Code.
  - New (18) and existing (19) chapters
- Additions, renovations, new construction, etc. are required to meet LSC because nursing homes are surveyed to that standard.
- LSC is not used the same as the MNSBC



# FEDERAL - HEALTHCARE FACILITIES CODE

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- 2012 NFPA 99 Healthcare Facilities Code
  - Entire code applies
  - Risk-based requirements for electrical, gas, and other critical systems.
- PCREE – Chapter 10
- Essential Electrical Systems





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# Assisted Living Physical Environment Regulations

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Do assisted living facilities require a  
Federal certification?

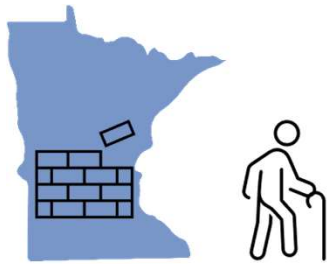


No



# New Assisted Living Regulations in MN

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A New Law Passed

---

in 2019

(MN Statute 144G)



Enforcement started

---

in 2021



## MN STATUTE 144G.45

- Subd. 1 – Site Requirements
- Subd. 2 – Fire Protection and Physical Environment
- Subd. 3 – Local Laws Apply
- Subd. 4 – FGI
- Subd. 6 – Plan submittal
- Subd. 7 – Variance or Waiver



# SITE REQUIREMENTS SUMMARY

## 144G.45, SUBD. 1

- Utilities
- Emergency vehicle access
- Not going to flood
- All weather walk from exit/service doors
- Outdoor space for residents



# FIRE PROTECTION & PHYSICAL ENVIRONMENT

## 144G.45, SUBD. 2 - SUMMARY

- MN State Fire Code Compliance
- Smoke Alarms
- Fire Extinguishers
- Maintain Physical Environment
- Fire Safety and Evacuation Plans
- Distinct Hazards to Life



## **LOCAL LAWS APPLY**

### **144G.45, SUBD. 3**

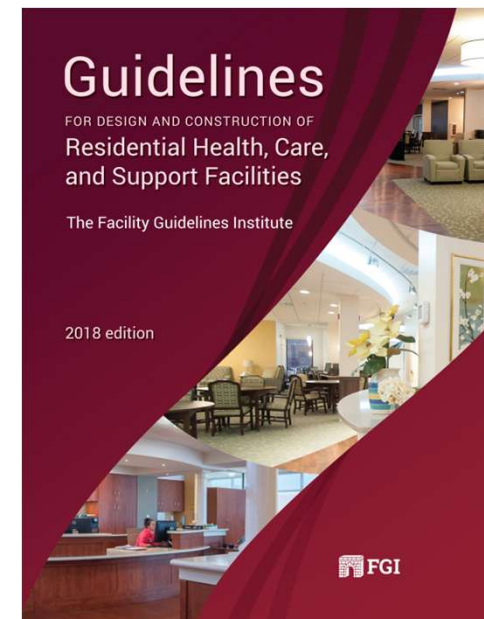
- Must comply with all:
  - Ordinances
  - Regulations
  - Codes
  - Standards, etc.



# FGI REQUIREMENTS

## 144G.45, SUBD. 4

- All assisted living facilities with six or more residents
- 2018 edition of the Facility Guidelines Institute "Guidelines for Design and Construction of Residential Health, Care and Support Facilities" all new licenses or new construction.



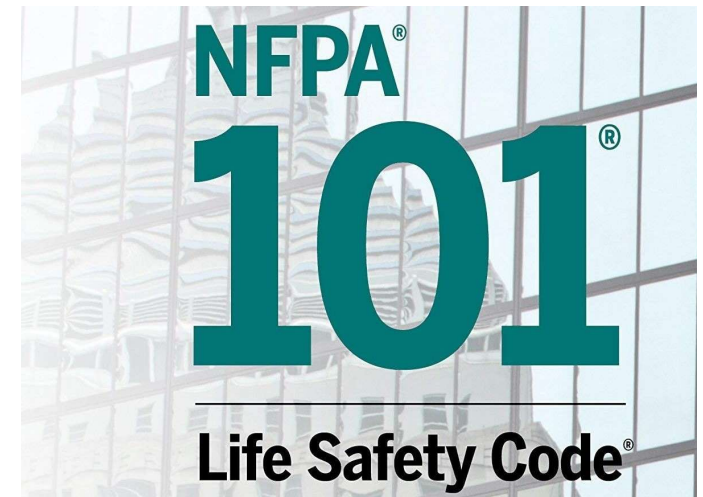


# LIFE SAFETY CODE STATUTE SUMMARY

## 144G.45, SUBD. 5



- 2018 NFPA 101 Life Safety Code.
- ALF's - Chapter 32 – Residential Board and Care Occupancies.
  - 32.2 - Small facilities (6-16 residents)
  - 32.3 – Large facilities (17+ residents)





## MN STATUTE

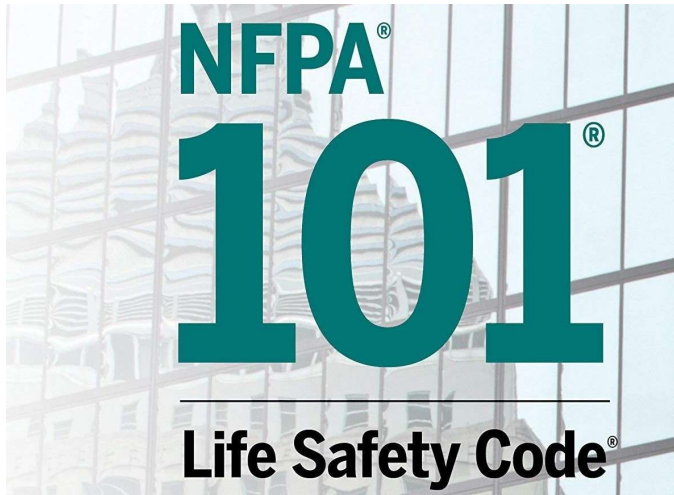
### 144G.81 – ALFDC'S

- Additional ALFDC requirements include:
  - 144G.81, Subd. 1-3
    - 144G.81, Subd. 1 (HVA)
    - 144G.81, Subd. 2 – doesn't exist
    - 144G.81, Subd. 3 (LSC)



# LIFE SAFETY CODE STATUTE SUMMARY

144G.81, SUBD. 3



- ALFDC's – Chapter 18 – Healthcare (limited-care) Occupancies.
  - All size facilities

# LEGISLATIVE CHANGES - 2025

## 144G.10, SUBD. 1 AMENDED

- Subd. 1C – added language
- 1 license for each “building”
  - Meant to be 1 roof, 1 license
- All AL licenses need to be separated from other Als or other occupancies by a 2-hr fire barrier



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# Behind the curtain

## At MDH Engineering Services

# ENGINEERING SERVICES TEAM

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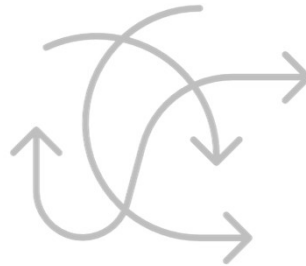
- Healthcare Team
  - 4 employees
  - Hospitals, nursing homes, SLF's, etc.
- Assisted Living Team
  - 12 employees and growing
  - 2 plan reviewers
  - 10 surveyors



<https://www.health.state.mn.us/facilities/regulation/engineering/contacts.html>

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# Assisted Living Submittal Process



# SUBMITTAL SUMMARY

## 144G.45, SUBD. 6



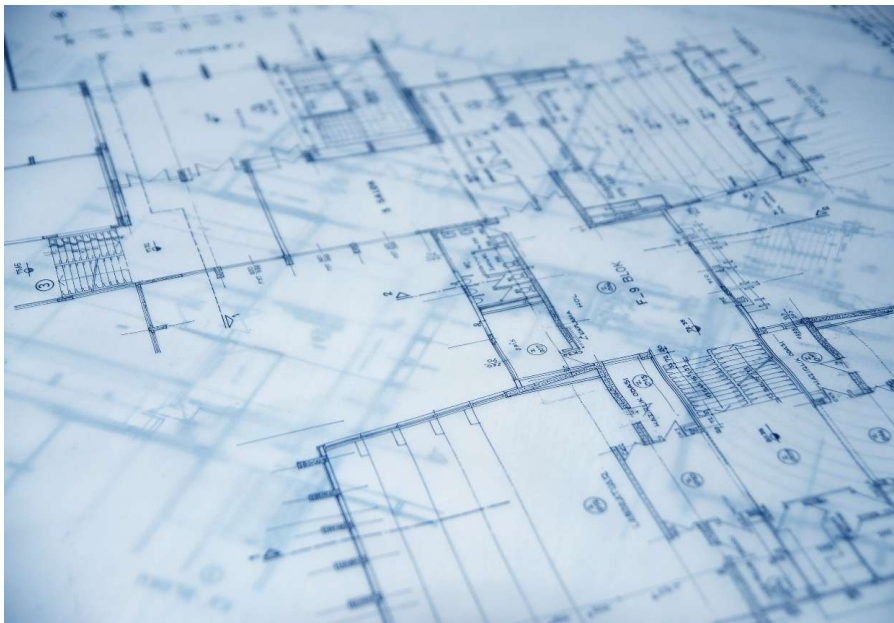
- For ALFs AND ALFDCs
  - New licenses
  - New construction
    - Renovations, remodels, etc.
    - Not replace in kind or general maintenance
- Drawings need to be signed by an architect





# SUBMITTAL SUMMARY

## 144G.45, SUBD. 6



- Similar drawings you will need to obtain a building permit.
- You have 1 year to start construction after approval of the drawings by MDH.
- Schedule your inspection at about the same time as substantial completion.
- Life safety plans need to be kept on file at the facility.

# SUBMITTAL PROCESS FOR EXISTING LICENSES



- Submittal form:  
<https://www.health.state.mn.us/facilities/regulation/engineering/docs/submittalformalf.pdf>
- Email drawings & form to:
  - [health.assistedliving@state.mn.us](mailto:health.assistedliving@state.mn.us)
  - If you did a prelim review with staff, copy that person too
- Plan review fees since 2024
- Send check and copy of submittal form through the mail

# SUBMITTAL PROCESS

## NEW LICENSES



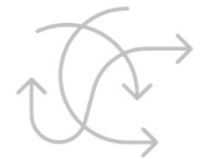
- Construction documents are submitted with license application
  - <https://www.health.state.mn.us/facilities/regulation/assistedliving/docs/provisionalapp.pdf> - filled out by owner
  - <https://www.health.state.mn.us/facilities/regulation/engineering/docs/submitformalf.pdf> - filled out by architect/consultant
- Provider/Operator uploads all required documents to MDH's website.
  - <https://hrdlicensing.web.health.state.mn.us/#/>
- Plan review fee & separate application fee.
- Should be done at same time as building permit application.



# Congratulations, you're in the SYSTEM!!!!

## NEW LICENSES

- Intake Team or General Inbox
- License is broken into 2 tracks
  1. Engineering Services (plan review)
    - a. Physical Environment section only
  2. Credentialing (other licensing items)
    - a. All other sections: Authorized Agent, UDALSA, Owners, Insurance, etc.
- Paradise – An antiquated program that tracks every HFID
- Perceptive Content – Sim to MNDOLI, but not as good



# Project Review Process

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The same AL review process within MDH-Engineering Services starts after:

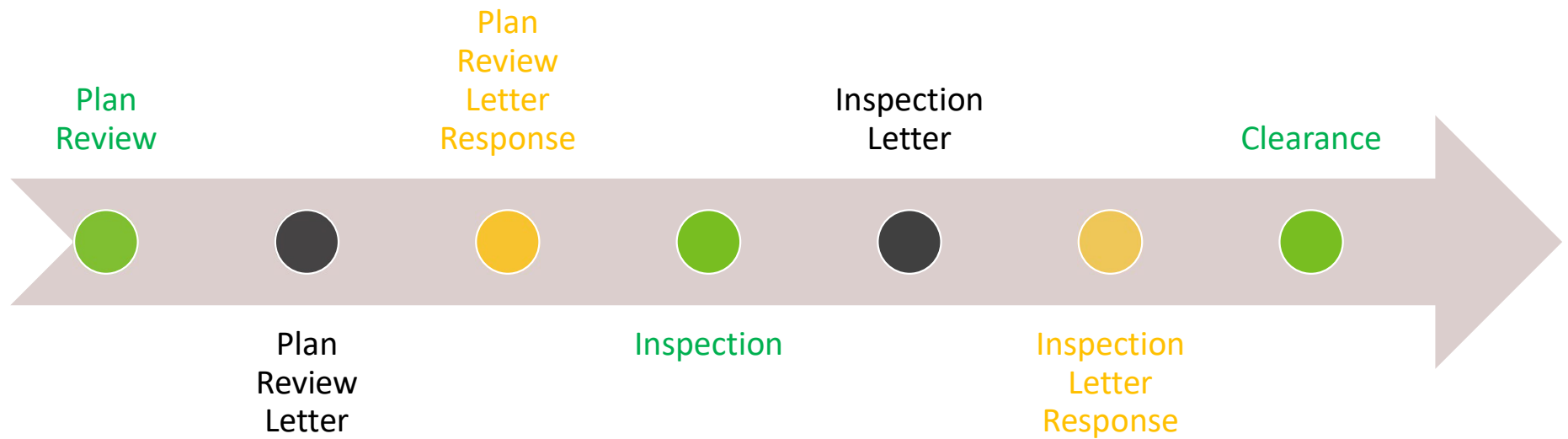
- A new license application has been paid for or,
- A new construction project for existing license submittal form and drawings are received



# Project Review Process

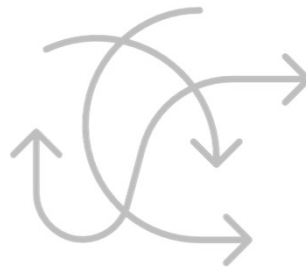


## STEP BY STEP



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# Nursing Home Submittal Process



# Nursing Home Submittal

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The same review process for all Healthcare projects.





# SUBMITTAL PROCESS

## FOR ALL HEALTHCARE EXCEPT AL



- Submittal form:  
<https://www.health.state.mn.us/facilities/regulation/engineering/docs/submittalform.pdf>
- Email drawings & form to:
  - healthcareengineers@state.mn.us
  - If you did a prelim review with staff, copy that person too
- Plan review fees apply
- Send check and copy of submittal form through the mail

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# The Nursing Home vs. Assisted Living Survey Process

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What agency in Minnesota is responsible  
for nursing home surveys?



# Survey Process

Similar for both AL and NH

- Task 1 - Offsite Survey Preparation
- Task 2 - Entrance Conference/Onsite Prep.
- Task 3 - Orientation Tour
- Task 4 - Information Gathering
  - Building & Policy/Paper Review
- Task 5 - Information Analysis and Decision Making
- Task 6 - Exit Conference

## MDH AL Survey Evaluators

At least 3 MDH employees are going to be in your building during a survey.

- Nurse evaluator (everything except kitchen & building)
  - Emergency Preparedness
- Food Code evaluator (kitchen used by staff only)
- Physical environment evaluator
  - Engineering Services team



# Types of Assisted Living Surveys

- Conversion
  - For all facilities that converted from HWS to AL, no matter # of residents
- Provisional
  - The 1<sup>st</sup> survey all facilities get
  - Determines if the facility will receive its full license
  - Could be a Life Safety Code survey
- Life Safety Code
  - Type of LSC survey depends on size or license type
    - 6-16 residents (Chapter 32 - Small board and care occupancies)
    - 17 or more residents (Chapter 32 - Large board and care occupancies)
    - Dementia Care (Chapter 18 - Healthcare (limited-care))

## Possible AL Survey Citations

- ALF & ALFDC
  - 0770 – Site Components
  - 0775 – Fire Code
  - 0780 – Smoke Alarms
  - 0790 – Fire Extinguishers
  - 0800 – Physical Environment
  - 0810 – Evacuation Plans
  - 0820 – Distinct Hazard to Life
  - 0830 – Local Laws Apply
  - 0840 – FGI (only if something slipped through the cracks)
  - 0850 – Life Safety Code (attached 2786V or W)
- Additional ALFDC
  - 2040 – Hazard Vulnerability Assessment
  - 0850 – Life Safety Code (attached 2786R)

# Nursing Home Surveys

- Life Safety Code Survey
  - 2012 NFPA 101
    - Plus other NFPA associated codes: 10, 25, 72, 80, 99, 110
  - New & Existing chapters surveyed
- MN State Deputy Fire Marshal
  - Regional
- Occur about once per year
  - Often around the same time of the year
- 2786R – K Tags
- Emergency Preparedness



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# Regulatory Scenarios



## REGULATORY SCENARIO 1 - PCREE

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### Facility Info:

- 75 resident ALF
- Converted from HWS to new AL licensee

Are patient care-related electrical appliances and equipment required to be tested?

- No – why?
- No code path from 2018 LSC to Chapter 10 of NFPA 99
- How about for nursing homes?
- Yes – why?
- NFPA 99 adopted in full by CMS



## REGULATORY SCENARIO 2 – OUTLET TESTING

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### Facility Info:

- 32 resident ALFDC
- Received license on 03/15/2023

### Is outlet/receptacle testing required?

- NO – why?
- No code path from 2018 LSC to Section 6.3 of NFPA 99
- NFPA 99 was not adopted in its entirety like Nursing Homes, only EE Systems
- Nursing homes?
- Yes and keep doing it



## REGULATORY SCENARIO - SHOWERS

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### Facility Info:

- 10 resident ALF
- Received license on 06/18/2024

Do residents need access to a shower without going into a corridor?

- No – why?
- FGI Formal Interpretation - [https://fgiguideelines.org/wp-content/uploads/2022/06/FGI-interps Guidelines 2018 RES 180430.pdf](https://fgiguideelines.org/wp-content/uploads/2022/06/FGI-interps_Guidelines_2018_RES_180430.pdf)
- Covers small (less than 5) and medium (6-15 residents), ALF or ALFDC
- Watch resident #16!

# Objectives

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- Identify the key Minnesota statutes and administrative rules that govern physical environment licensure requirements for assisted living facilities and nursing homes.
- Describe the major differences and similarities in physical environment requirements between assisted living and nursing home licensure in Minnesota.
- Apply and evaluate the Minnesota Department of Health's licensing, regulatory, and compliance requirements for existing and future healthcare buildings.

Follow the code path!

# QUESTIONS?

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