



# A New Assisted Living Environment

What to Expect During an Assisted  
Living Survey for Conversion Facilities.

# Introduction

Michael Mireau is one of Minnesota's top state-licensed physical environment subject matter experts. He was 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 successfully develop and maintain physical environments that enable health, safety, and well-being for those they serve.





# Objectives

- Recognize the physical environment and fire safety requirements included in Minnesota's Assisted Living Licensure law
- Associate the survey findings for converted assisted living facilities with the possible physical environment citations.
- Differentiate the survey differences between assisted living facilities and assisted living facilities with dementia care.
- Identify how to avoid immediate correction citations and fines.

# A New Assisted Living Environment



# What are we all doing here today?

- 
- 144D – Housing with Services (HWS)
    - No physical environment components for license
    - Still had to comply with MN State Building Code for construction
- 
- 144G – Assisted Living Licensure
    - Signed into law in 2019
    - Physical environment components
    - Enforced since 8/1/2021
    - 2070 existing HWS licenses migrated to new AL licenses. (Conversions)
    - 600+ new facilities since 8/1/2021
  - Review law posted on Revisor's website
    - <https://www.revisor.mn.gov/statutes/cite/144G/pdf>



# ALF vs. ALFDC

- **ALF** – *Assisted Living Facility*
  - a facility that provides sleeping accommodations and assisted living services to one or more adults.
- **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

# CONVERSION VS. PROVISIONALS

**Conversion** (Converted from HWS to new AL License):

- ALF or ALFDC
- Already have an HFID
- Time period to convert is passed.

**Provisional** (new license after 8/1/21):

- PALF or PALFDC
- Issued an HFID after completing an application
- Every new ALF or ALFDC moving forward

# 144G.191 – BUILDING PERMIT APPLICATION BEFORE 8/1/2021

**“Grandfathering” in of new construction with building permit application prior to 8/1/2021**

## **144G.191 ASSISTED LIVING FACILITY LICENSING IMPLEMENTATION; TRANSITION PERIOD FOR CURRENT PROVIDERS.**

Subd. 2. New construction; building permit.

- (a) All prospective assisted living facility license applicants seeking a license and having new construction who have submitted a complete building permit application to the appropriate building code jurisdiction on or before July 31, 2021, may meet construction requirements in effect when the building permit application was submitted.
- (b) All prospective assisted living facility license applicants seeking a license for new construction who submit a complete building permit application to the appropriate building code jurisdiction on or after August 1, 2021, must meet the requirements of section 144G.45.
- (c) For the purposes of paragraph (a), in areas of jurisdiction where there is no building code authority, a complete application for an electrical or plumbing permit is acceptable in lieu of the building permit application.
- (d) For the purposes of paragraph (a), in jurisdictions where building plan review applications are separated from building permit applications, a submitted complete application for plan review is acceptable in lieu of the building permit application.



# 144G.191 – BUILDING PERMIT APPLICATION BEFORE 8/1/2021

**“Grandfathering” in of new construction with building permit application prior to 8/1/2021**

- Yes, you are a provisional ALF or ALFDC license, **BUT**
  - You will get a Conversion survey (144G.45, subd. 1-3 & 144G.81 subd. 1)
  - You will **NOT** get a Life Safety Code survey.
- 
- Most facilities in this situation have already started construction.
  - Highly unlikely that you may still be in this situation.
  - To qualify, you needed to submit a digital paper trail showing the submitted application to a local jurisdiction dated prior to 8/1/2021.

# The Engineering Services Team

- Healthcare Team
  - 4 employees (Rex, Ben, Fernando & Frances)
  - Hospitals, nursing homes, SLF's, etc.
- Assisted Living Team
  - 9 employees
  - 2 plan reviewers (Christian & Tim)
  - 7 surveyors (Soo young, Cathy, Stephanie, Sharon, Terry, Nathan, Michelle)



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

# The Survey Process

# MDH Survey Evaluators

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

- Nurse evaluator (everything except kitchen & building)
- Food Code evaluator (kitchen used by staff only)
- Physical environment evaluator
  - Engineering Services team
  - Deputy State Fire Marshal (Contract through 7/31/2024)



# Conversion Survey Components

## Physical Environment Evaluator Survey Tasks

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

# Possible Conversion Survey Citations

- ALF & ALFDC
  - 0770 – Site Components
  - 0780 – Smoke Alarms
  - 0790 – Fire Extinguishers
  - 0800 – Physical Environment
  - 0810 – Evacuation Plans
  - 0820 – Distinct Hazard to Life
  - 0830 – Local Laws Apply
- Additional ALFDC
  - 2040 – Hazard Vulnerability Assessment



# Most Common Physical Environment Citations

- ALF & ALFDC Possible Citations/Tags
  - 0780 – Smoke Alarms
  - 0800 – Physical Environment
  - 0810 – Evacuation Plans
- Additional ALFDC Possible Citation/Tag
  - 2040 – Hazard Vulnerability Assessment

# MN Statute 144G.45 & Associated Citations

# MN STATUTE 144G.45 – INTRO

- Survey to determine compliance of:
  - Subdivision 1 – Site Requirements
  - Subdivision 2 – Fire Protection and Physical Environment
  - Subdivision 3 – Local Laws Apply
- Not part of a **Conversion** survey:
  - Subdivisions 4-7 (FGI, LSC, etc.)



# STATUTE LANGUAGE – 144G.45, SUBD. 1

## 144G.45 MINIMUM SITE, PHYSICAL ENVIRONMENT, AND FIRE SAFETY REQUIREMENTS.

Subdivision 1. **Requirements.** The following are required for all assisted living facilities:

- (1) public utilities must be available, and working or inspected and approved water and septic systems must be in place;
- (2) the location must be publicly accessible to fire department services and emergency medical services;
- (3) the location's topography must provide sufficient natural drainage and is not subject to flooding;
- (4) all-weather roads and walks must be provided within the lot lines to the primary entrance and the service entrance, including employees' and visitors' parking at the site; and
- (5) the location must include space for outdoor activities for residents.

# 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



# SITE REQUIREMENTS DURING SURVEY

## 144G.45, SUBD. 1



- Tag 0770
  - Sidewalks not maintained
  - During winter, walks are not cleared
  - Water in the basement from flooding
  - Missing outdoor space for residents



# STATUTE LANGUAGE – 144G.45, SUBD. 2

## Subd. 2. **Fire protection and physical environment.**

(a) Each assisted living facility must comply with the State Fire Code in Minnesota Rules, chapter 7511, and:

(1) for dwellings or sleeping units, as defined in the State Fire Code:

(i) provide smoke alarms in each room used for sleeping purposes;

(ii) provide smoke alarms outside each separate sleeping area in the immediate vicinity of bedrooms;

(iii) provide smoke alarms on each story within a dwelling unit, including basements, but not including crawl spaces and unoccupied attics;

(iv) where more than one smoke alarm is required within an individual dwelling unit or sleeping unit, interconnect all smoke alarms so that actuation of one alarm causes all alarms in the individual dwelling unit or sleeping unit to operate; and

(v) ensure the power supply for existing smoke alarms complies with the State Fire Code, except that newly introduced smoke alarms in existing buildings may be battery operated;

# STATUTE LANGUAGE – 144G.45, SUBD. 2

- (2) install and maintain portable fire extinguishers in accordance with the State Fire Code;
  - (3) install portable fire extinguishers having a minimum 2-A:10-B:C rating within Group R-3 occupancies, as defined by the State Fire Code, located so that the travel distance to the nearest fire extinguisher does not exceed 75 feet, and maintained in accordance with the State Fire Code; and
  - (4) keep the physical environment, including walls, floors, ceiling, all furnishings, grounds, systems, and equipment in a continuous state of good repair and operation with regard to the health, safety, comfort, and well-being of the residents in accordance with a maintenance and repair program.
- (b) Each assisted living facility shall develop and maintain fire safety and evacuation plans. The plans shall include but are not limited to:
- (1) location and number of resident sleeping rooms;
  - (2) employee actions to be taken in the event of a fire or similar emergency;
  - (3) fire protection procedures necessary for residents; and
  - (4) procedures for resident movement, evacuation, or relocation during a fire or similar emergency including the identification of unique or unusual resident needs for movement or evacuation.

## STATUTE LANGUAGE – 144G.45, SUBD. 2

- (c) Employees of assisted living facilities shall receive training on the fire safety and evacuation plans upon hiring and at least twice per year thereafter.
- (d) Fire safety and evacuation plans shall be readily available at all times within the facility.
- (e) Residents who are capable of assisting in their own evacuation shall be trained on the proper actions to take in the event of a fire to include movement, evacuation, or relocation. The training shall be made available to residents at least once per year.
- (f) Evacuation drills are required for employees twice per year per shift with at least one evacuation drill every other month. Evacuation of the residents is not required. Fire alarm system activation is not required to initiate the evacuation drill.
- (g) Existing construction or elements, including assisted living facilities that were registered as housing with services establishments under chapter 144D prior to August 1, 2021, shall be permitted to continue in use provided such use does not constitute a distinct hazard to life. Any existing elements that an authority having jurisdiction deems a distinct hazard to life must be corrected. The facility must document in the facility's records any actions taken to comply with a correction order, and must submit to the commissioner for review and approval prior to correction.

# 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



# FIRE PROTECTION & PHYSICAL ENVIRONMENT

## 144G.45, SUBD. 2

- EVERY facility MUST comply with the MN State Fire Code
  - 144G and MSFC have jurisdiction
  - AHJ's will support each other
  - Not a part of the survey



# STATUTE LANGUAGE – 144G.45, SUBD. 2

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(v) ensure the power supply for existing smoke alarms complies with the State Fire Code, except that newly introduced smoke alarms in existing buildings may be battery operated;



# SMOKE ALARMS

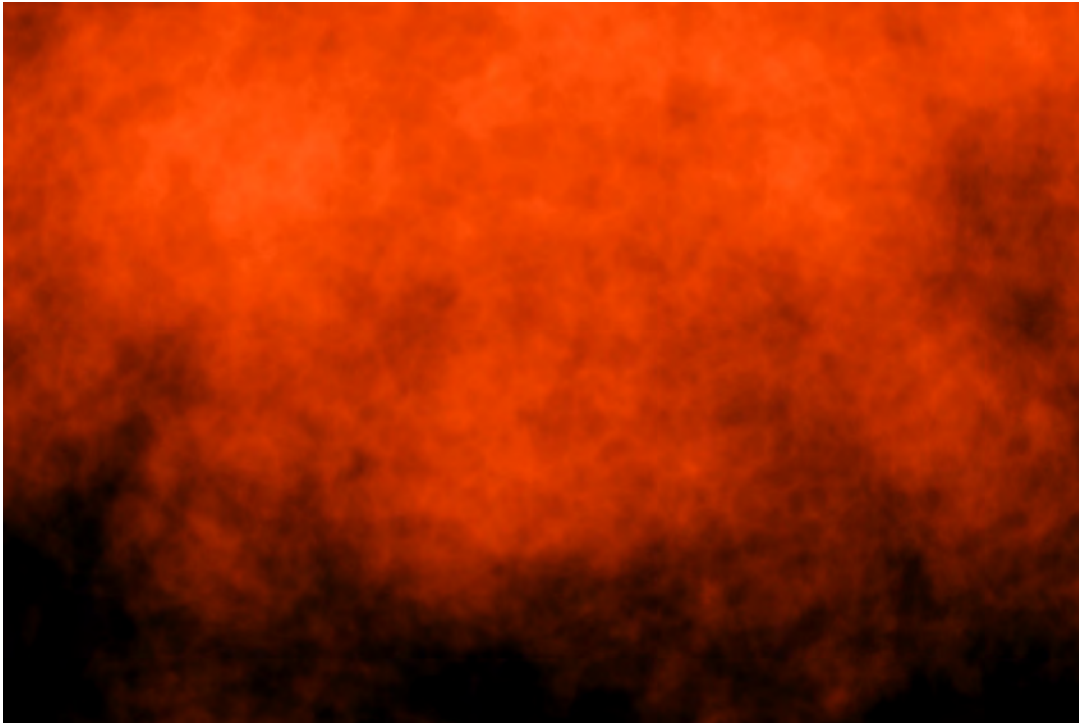
## 144G.45, SUBD. 2

- Smoke alarms – not smoke detectors.
- Each room used for sleeping purposes
- Outside each sleeping area in immediate vicinity of bedrooms
- On each story within a dwelling unit, including basements
- Interconnected within each dwelling unit
  - When one goes off, they all go off.
- Newly introduced smoke alarms in existing buildings can be battery-operated.



# SMOKE ALARMS DURING SURVEY

144G.45, SUBD. 2



- Tag 0780
- Smoke alarms missing, tampered with, or not interconnected when needed to be
- Smoke alarms NOT smoke detectors
- One of the most common tags

## STATUTE LANGUAGE – 144G.45, SUBD. 2

- (2) install and maintain portable fire extinguishers in accordance with the State Fire Code;
  - (3) install portable fire extinguishers having a minimum 2-A:10-B:C rating within Group R-3 occupancies, as defined by the State Fire Code, located so that the travel distance to the nearest fire extinguisher does not exceed 75 feet, and maintained in accordance with the State Fire Code; and
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  - (4) procedures for resident movement, evacuation, or relocation during a fire or similar emergency including the identification of unique or unusual resident needs for movement or evacuation.

# PORTABLE FIRE EXTINGUISHERS

## 144G.45, SUBD. 2



### Occupancy Requirements:

- **R-3/House** – 2-A:10-B:C is required
  - Travel distance not to exceed 75 ft
  - Must be maintained
  - Best Practice: one per level, near fuel-fired appliances, K class for kitchen
- **R-4/Apartment (6-16)** – refer to MN State Fire Code
- **I-1/Apartment (17+)** – refer to MN State Fire Code
- **I-2/Dementia Care Facility**– refer to MN State Fire Code

# FIRE EXTINGUISHERS DURING SURVEY

144G.45, SUBD. 2



- Tag 0790
- Fire extinguishers missing or not maintained
- Wrong type

# STATUTE LANGUAGE – 144G.45, SUBD. 2

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# PHYSICAL ENVIRONMENT MAINTENANCE

## 144G.45, SUBD. 2

- keep the physical environment, including walls, floors, ceiling, all furnishings, grounds, systems, and equipment in a continuous state of good repair and operation with regard to the health, safety, comfort, and well-being of the residents in accordance with a maintenance and repair program.

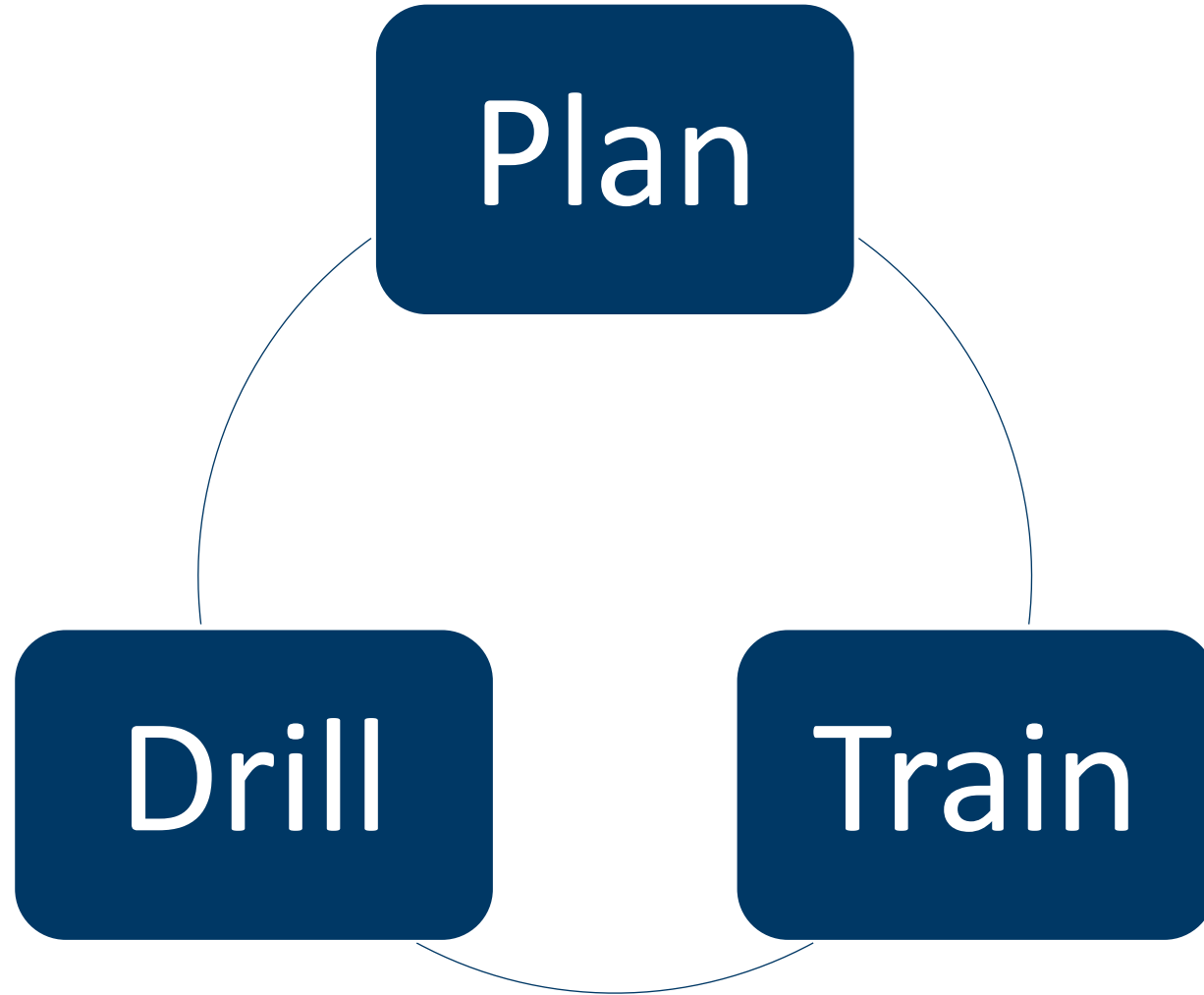
# FACILITY MAINTENANCE DURING SURVEY

## 144G.45, SUBD. 2



- Tag 0800
  - Water damage, mold, peeling paint
  - Not cleaned
  - Excessive insects or spiderwebs
  - Sticky exit doors
  - The “Catch All” tag
  - One of the most common tags

# FIRE & EVACUATION PLANS



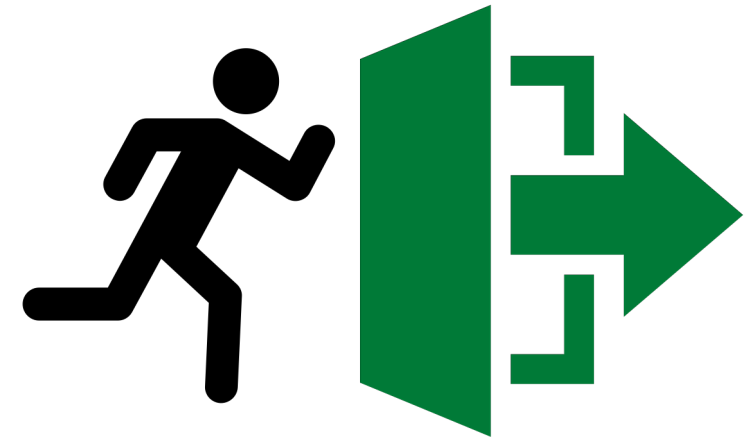
## STATUTE LANGUAGE – 144G.45, SUBD. 2

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# FIRE & EVACUATION PLANS

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

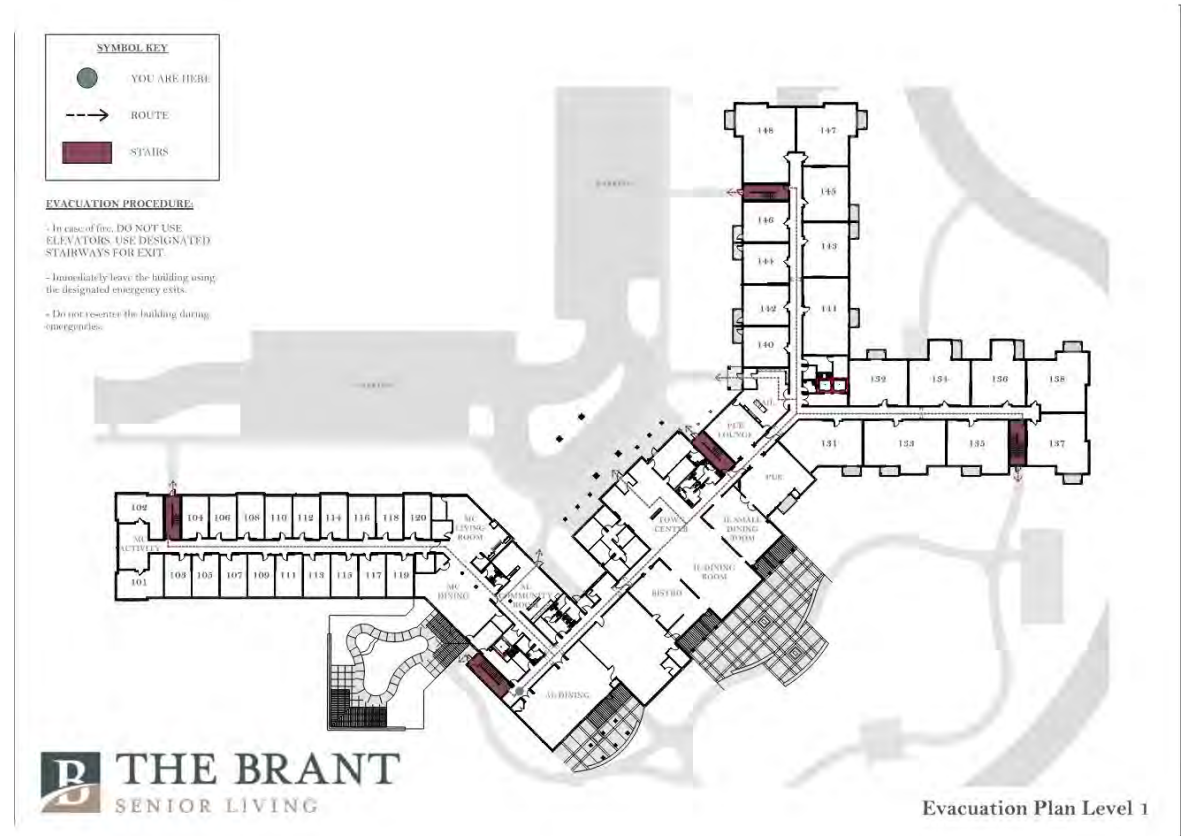
- **Not just for fires.** Could be for gas leaks or other emergencies
- Facilities need to develop and maintain
- Fire & evacuation plans – 2 parts
  - 1 - Floor plan diagram
  - 2 - Policy/documentation
    - Employee actions during an evacuation
    - Resident actions during an evacuation
    - Unique or unusual resident during an evacuation



# FIRE & EVACUATION PLANS

## FLOOR PLAN DIAGRAM

- Number of resident bedrooms
- Location of resident bedrooms
- Also recommended:
  - Primary exits
  - Secondary exits – could be egress windows
  - Exit routes from each room
  - Fire extinguishers



# FIRE & EVACUATION PLANS

## POLICY OR DOCUMENTATION



- **Employee actions**
- What happens first?
- When do you contact first responders?
- Do different staff have different actions?
- When something happens, what's the staff going to do?



# FIRE & EVACUATION PLANS

## POLICY OR DOCUMENTATION

- **Resident actions**
- When something happens, what are the residents going to do?
- Who stays in their room?
- When should the primary exit be used?
- Do residents help in any way?





# FIRE & EVACUATION PLANS

## POLICY OR DOCUMENTATION



- **Unique or unusual resident actions**
- Are there residents in your facility that have unique needs?
  - mental health limitations,
  - physical limitations
- How are these residents included in the overall evacuation?

# FIRE & EVACUATION PLANS

## POLICY OR DOCUMENTATION

- BOTH parts of Fire & Evacuation Plans shall be:
  - **Readily available** at all times **within the facility**
- Recommended locations:
  - In a binder at the facility.
  - Available online to residents and staff members.
  - On the back of each resident's bedroom door.
  - Posted on a wall in the facility.
- **Best practice:** Staff should know without referencing the policy.

## STATUTE LANGUAGE – 144G.45, SUBD. 2

- (c) Employees of assisted living facilities shall receive training on the fire safety and evacuation plans upon hiring and at least twice per year thereafter.
- (d) Fire safety and evacuation plans shall be readily available at all times within the facility.
- (e) Residents who are capable of assisting in their own evacuation shall be trained on the proper actions to take in the event of a fire to include movement, evacuation, or relocation. The training shall be made available to residents at least once per year.
- (f) Evacuation drills are required for employees twice per year per shift with at least one evacuation drill every other month. Evacuation of the residents is not required. Fire alarm system activation is not required to initiate the evacuation drill.
- (g) Existing construction or elements, including assisted living facilities that were registered as housing with services establishments under chapter 144D prior to August 1, 2021, shall be permitted to continue in use provided such use does not constitute a distinct hazard to life. Any existing elements that an authority having jurisdiction deems a distinct hazard to life must be corrected. The facility must document in the facility's records any actions taken to comply with a correction order, and must submit to the commissioner for review and approval prior to correction.

# FIRE & EVACUATION PLANS

## EMPLOYEE TRAINING

- Training = Education
- Employees shall receive training:
  - When first hired
  - Twice per year after that
- Night shift can be the most risky



# FIRE & EVACUATION PLANS

## RESIDENT TRAINING



- Residents capable of assisting in their own evacuation shall have training available:
  - At least once per year
- Recommended:
  - Post on the back of the bedroom/apartment door or,
  - In a binder in their room or,
  - Provided via live presentation or,
  - Provided via online training

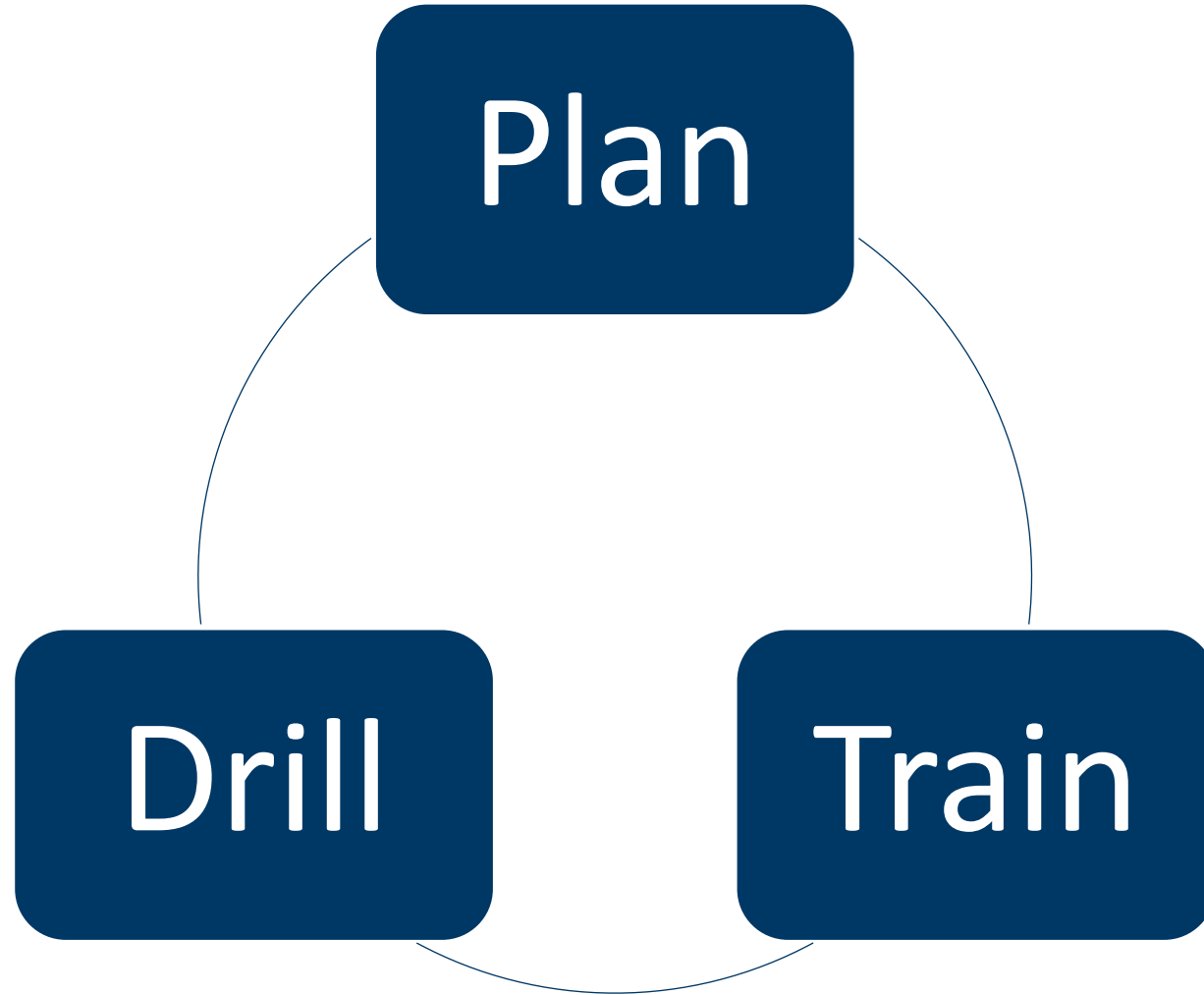
# FIRE & EVACUATION PLANS

## EMPLOYEE DRILLS

- Drills = Practice
- For employees ONLY
- Residents do not need to evacuate
- Alarms do NOT need to sound
- **Required:**
  - Twice per shift - At least every other month
- **Recommended:** keep a log
- **Best practice:** Drill for worst-case scenario



# FIRE & EVACUATION PLANS





# EVACUATION PLANS DURING SURVEY

## 144G.45, SUBD. 2

- Tag 0810
- Confusing or missing exit plans/diagrams
- Confusing or missing evacuation policy/procedure for staff
- Drills are not occurring or not documented
- No training for residents who are capable of assisting in their own evacuation





## STATUTE LANGUAGE – 144G.45, SUBD. 2

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# **DISTINCT HAZARD TAG**

## **144G.45, SUBD. 2**

- Your facility should not:
  - Be able to harm a person.
  - Prevent safe exiting.
- Only immediate correction tag for the physical environment.
  - Plan of correction required.



# DISTINCT HAZARDS DURING SURVEY

## 144G.45, SUBD. 2



- Tag 0820
  - Exposed electrical wires
  - Sharp objects
  - Furnace or A/C not working (emergency preparedness)
  - Egress windows
  - Exposed broken glass
  - Construction project not separated from residents

# STATUTE LANGUAGE – 144G.45, SUBD. 3

## **Local laws apply.**

Assisted living facilities shall comply with all applicable state and local governing laws, regulations, standards, ordinances, and codes for fire safety, building, and zoning requirements.

# LOCAL LAWS APPLY

## 144G.45, SUBD. 3

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



# Local Laws Apply

## 144G.45, Subd. 3 – during survey

- Tag 0830
- Made as observations
  - Fire Code issues:
    - Sprinkler systems not installed correctly
- Plumbing code

# MN Statute 144G.81 & Associated Citation

# STATUTE LANGUAGE – 144G.81

## ADDITIONAL REQUIREMENTS FOR ASSISTED LIVING FACILITIES WITH SECURED DEMENTIA CARE UNITS.

### Subdivision 1. **Fire protection and physical environment.**

An assisted living facility with dementia care that has a secured dementia care unit must meet the requirements of section [144G.45](#) and the following additional requirements:

- (1) a hazard vulnerability assessment or safety risk must be performed on and around the property. The hazards indicated on the assessment must be assessed and mitigated to protect the residents from harm; and
- (2) the facility shall be protected throughout by an approved supervised automatic sprinkler system by August 1, 2029.

### Subd. 2.

MS 2020 [**Repealed**, [7Sp2020 c 1 art 6 s 26](#)]



# FIRE PROTECTION & PHYSICAL ENVIRONMENT

## 144G.81, SUBD. 1

- An ALFDC with a secured unit must have:
  - A Hazard Vulnerability Assessment
    - Not an Emergency Preparedness Plan
    - Performed on & around the facility and grounds
    - Identify and mitigate
- Sprinklers by 8/1/2029



# Additional Dementia Care Requirements

## 144G.81, Subd. 1 – during survey

- Tag 2040
- HVA's must identify & mitigate the risks.
  - Not identified any risks on & around the facility
  - Missing risk mitigations (policy)
- Not tagging sprinklers until after August 1, 2029

# STATUTE LANGUAGE – 144G.81

## Subd. 3. **Assisted living facilities with dementia care and secured dementia care unit; Life Safety Code.**

(a) All assisted living facilities with dementia care and a secured dementia care unit must meet the applicable provisions of the 2018 edition of the NFPA Standard 101, Life Safety Code, Healthcare (limited care) chapter. The minimum design standards shall be met for all new licenses or new construction.

(b) If the commissioner decides to update the Life Safety Code for purposes of this subdivision, the commissioner must notify the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health care and public safety of the planned update by January 15 of the year in which the new Life Safety Code will become effective. Following notice from the commissioner, the new edition shall become effective for assisted living facilities with dementia care and a secured dementia care unit beginning August 1 of that year, unless provided otherwise in law. The commissioner shall, by publication in the State Register, specify a date by which these facilities must comply with the updated Life Safety Code. The date by which these facilities must comply shall not be sooner than six months after publication of the commissioner's notice in the State Register.

# FIRE PROTECTION & PHYSICAL ENVIRONMENT

144G.81, SUBD. 3



Not a part of a  
Conversion survey!!!!



# Objectives Review

- Recognize the physical environment and fire safety requirements included in Minnesota's Assisted Living Licensure law
- Associate the survey findings for converted assisted living facilities with the possible physical environment citations.
- Differentiate the survey differences between assisted living facilities and assisted living facilities with dementia care.
- Identify how to avoid immediate correction citations and fines.

# How can The Source make you successful?

- By saving you time and money!
  - Existing facility services:
    - Mock Surveys
    - Inspections/Facility Assessments
    - Plan of corrections
    - AHJ Communications
    - Education/Training
    - CHOW Services
  - New facility services:
    - License application help
    - Submittal assistance
    - Plan reviews
    - Pre-inspections
    - AHJ communications and tracking
    - Education/Training
- Teams we work with:
  - Providers, Architects, Developers, Contractors, Investors, or Banks

## **A special Thank you!**

- **Bauer Design Build**
- **Kaas Wilson Architects**
- **Minnesota Healthcare Engineers Association**

# Questions?

## Contact Info

Mobile: 218-349-5506

Email: [michael@thesource-alc.com](mailto:michael@thesource-alc.com)

[www.thesource-alc.com](http://www.thesource-alc.com)

