



Assisted Living: A Community Conversation November 4, 2019

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Thank you team!

- Lauren Bangerter, PhD
– Mayo Clinic College of Medicine and Science
- Rajean Moone, PhD, LNHA
– Minnesota Leadership Council on Aging
– UMN College of Continuing & Professional Studies
- Jane Pederson, MD
– Stratis Health

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Thank you local partners!

- Arrowhead Area Agency on Aging
- Brown County
- Central MN Council on Aging
- Land of the Dancing Sky Area Agency on Aging
- Metropolitan Area Agency on Aging
- MN River Area Agency on Aging
- SE MN Area Agency on Aging

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Thank you experts!

- Marie Dotseth, MN Department of Health
- Amanda Vickstrom, MN Elder Justice Center
- Mary Jo George, AARP MN
- Genevieve Gaboriault, Ombudsman for LTC
- Kari Benson, MN Board on Aging/DHS
- Tetyana Shippee, UMN School of Public Health

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Overview

- Regulations Overview
- Consumer Protections Overview
- Ombudsman Overview
 - ⇒ Local Conversation
- Assisted Living Report Card Overview
 - ⇒ Local Conversation

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New Regulatory Framework

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Assisted Living in Minnesota: New Framework & Consumer Rights & Protections

Marie Dotseth, Assistant Commissioner
November 4, 2019

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Current State of Assisted Living



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Numbers Tell a Story

Licensed Nursing Homes

Peaked in 1980s

- 468 NFs
- 48,307 beds

Today

- 377 NFs (19% reduction)
- 28,968 (40% reduction)

Assisted Living Establishments

1980

- 0 AL Establishments

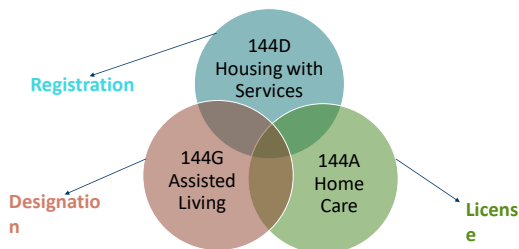
Today

- 1,857 HWS
- 78,358 estimated capacity
- 1,226 AL designation (55,192)
- 1,194 special care

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3 Main Statutes



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Comparison

144D and 144G

- Annual registration
- No inspection
- No mandatory incident reporting
- No complaint investigation
- No physical plant requirements
- Protected by landlord tenant law

144A

- Annual license
- Temp license inspection & every 3 years
- Required incident reports
- Complaint investigation authority
- Client care and business related requirements
- Protected by 144A, VAA and child maltreatment

11/1/2019

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Stakeholder Engagement & the New Law

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OF HEALTH

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Background and Timeline

- **Pre-2017:** Some work to address OHFC issues
- **Winter 2017:** Star Tribune series and Gov. Consumer Taskforce
- **2018 Legislative Session:** Various bills but session ends with veto of Omnibus Bill
- **Fall/Winter 2018:** Commissioner Malcolm convenes work groups
- **2019 Legislative Session:** Stakeholders work to pass legislation with compromises from all sides
- **2019-2021:** Transition period from current regulatory scheme to Assisted Living Licensure
- **2021 and beyond**

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Informal Work Groups Key to ALL Success

Fall 2018 Informal Working Groups – Built understanding and trust
Sample conclusions from the working groups:

- Assisted living service and housing regulation should be **one license**
- Consumers should retain the ability to grow and **age in place** where possible, including the ability to **bring additional services into** their place of residence
- Don't require** people who have dementia to live in dementia care settings but **do require additional certification or licensure** for special dementia care settings

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Informal Work Groups Key to ALL Success, cont.



Sample conclusions from the working groups:

- Electronic monitoring devices should be permitted**, resident rights protected and the process for placing devices clarified
- We should **better educate** consumers about their rights, **better enforce** those rights, and **strengthen rights** in key areas
- A **report card is needed** and should be pursued as part of a multi-pronged effort to **encourage and reward quality**
- Quality and patient safety **information is transparent and easy to understand** for residents, families, and providers and is **fair/just and promotes accountability** across all settings

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Informal Work Groups Key to ALL Success, cont. 2

Signed:


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 State Commissioner for
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Key Highlights of Assisted Living Licensure Law

- Single license and assisted living contract
- Physical plant requirements & fire safety
- Enhanced bill of rights
- Licensing of Assisted Living Directors
- Facility responsibilities and requirements
- Surveys, investigations, and enforcement
- Consumer protections



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Two Categories of Licensure: Assisted Living Facility License

I. Assisted Living Facility License

- Provides housing and AL services to residents
- May provide AL services to residents with dementia
 - Must meet resident's assessed needs
 - Diagnosis does not dictate setting
- Prohibited from having a secured dementia care unit



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Two Categories of Licensure: Assisted Living Facility with Dementia Care License

II. Assisted Living Facility with Dementia Care License

- Can advertise, market, or promote as providing specialized care for residents with dementia
- Must meet requirements of the ALF license **and** additional requirements:
 - License
 - Training
 - Programming
 - Staffing



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Minimum Physical Environment Requirements

Starting August 1, 2021:

- A physical environment survey every 2 years
- Plan reviews and final construction inspections for a new license or new construction by MDH engineering
- Smoke detectors in each occupied room **or** automatic sprinkler system
- Portable fire extinguishers
- Fire drills
- Physical environment in good repair
- Existing buildings must always be maintained in a manner that does not 'constitute a distinct hazard to life'

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Fire Protection Requirements

Assisted Living Facilities with Dementia Care and a secured dementia care unit (additional requirements):

- Comply with the Health Care Occupancy chapter (limited care) of the National Fire Protection Association (NFPA), Standard 101, Life Safety Code
- Conduct hazard vulnerability analysis to identify risk and mitigation strategies on the property
- Facility shall be protected throughout by an approved supervised automatic sprinkler system by August 1, 2029

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Other Requirements

- Competent staff and appropriate staffing levels
- Nutrition requirements
- Required services (Health services and supportive services)
- Disclosure of services provided
- Ongoing training
- Assisted Living Director



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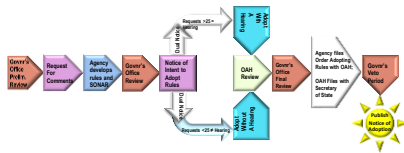
Key activities for FY20

- Rulemaking for Assisted Living Licensure
- Communications and engagement work
- Hiring, hiring and hiring
- Continuous improvement
- Planning for new IT systems
- Data and analytics

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Rulemaking Progress Chart



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Rulemaking Time Line & Advisory Committee

Rulemaking Timeline

144G.09, subd. 3:

- The Commissioner shall publish the proposed rules by December 31, 2019, and shall publish final rules by December 31, 2020.

Rules Advisory Committee

- Committee of stakeholders who will advise MDH on the rules.
- Committee represents a wide variety of viewpoints.
- Will work with MDH for a year until rules are published.

mi MINNESOTA

Rulemaking Topics

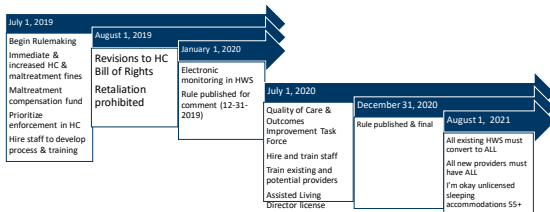
The Commissioner shall adopt rules that include, but are not limited to the following:

- Staffing levels for each license category
- Discharge planning
- Uniform checklist disclosure of services
- Procedures and timelines for termination appeals
- Emergency disaster and preparedness plans
- Training prerequisites and ongoing training
- Initial and continuing assessments, and uniform assessment tool
- Definition of serious injury that results from maltreatment
- Procedures to transition HWS registration and home care licenses to assisted living licensure
- Conditions and fine amounts for planned closures



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Implementation overview

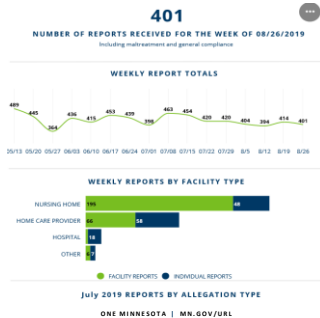


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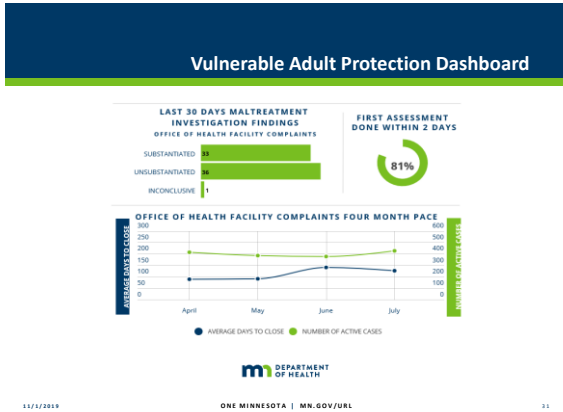
Vulnerable Adult Protection Dashboard



11/1/2019

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Consumer Protections in the 2019 Elder Care and Vulnerable Adult Act

ASSISTED LIVING CONVERSATION
NOV. 4, 2019



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Winter 2017-2018



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Why 2019 in Minnesota?

Pre-2017: Some work to address Health Department investigations of abuse and neglect

Winter 2017: MN Star Tribune series, Governor creates a Consumer Taskforce and Health Commissioner resigns

2018 Legislative Session: Various bills but session ends with veto of an Omnibus Bill



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Why 2019 in Minnesota?

Fall/Winter 2018: New Health Commissioner convenes assisted living work groups

2019 Legislative Session: Stakeholders work to pass legislation with compromises from all sides

2019-2021: Transition period from current regulatory scheme to Assisted Living Licensure



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Key Parts of the Law

Assisted Living Licensure

- New physical plant standards
- Licensed Assisted Living Director

Assisted Living Licensure

- New Dementia Care requirements
- One Accountable Entity



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Key Parts of the Law

Consumer Protections

- New prohibitions against retaliation
- Protections against unnecessary and unfair discharges/terminations – including the right to appeal
- Coordinated Moves if a resident is discharged

Consumer Protections

- Right to place a camera in one's own room
- "I'm OK" Checks
- Maltreatment fund



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Key Parts of the Law

Other Protections

- Funding for Long Term Care Ombudsman Office
- More regional ombudsmen
- More surveys of facilities by the MN Department of Health

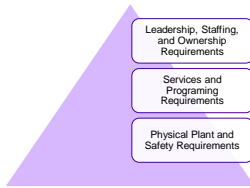
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AL Licensure – Basic Structure



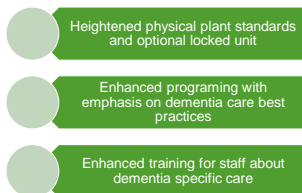
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AL with Dementia Care



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Electronic Monitoring

Resident or Resident Rep. can place a monitoring device in NH/AL.
Resident Rep. is a guardian, healthcare agent, or person designated in the resident's file.

Resident or Resident Rep. must complete a consent form and provide notice to facility with some exceptions. Exceptions include: Fear of retaliation, previous reports already made, facility unresponsive to complaints.

Facility must allow the device and cannot retaliate for its placement

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Protections Against Retaliation

Step 1

- The law identifies the types of advocacy actions that are protected from retaliation.
- The list includes many common examples residents attempt to assert their rights in long term care settings like threatening to file a complaint or actually making a complaint to the health department or the facility itself.
- Includes protections for others advocating on the resident's behalf.

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Protections Against Retaliation

Step 2

- The law identifies the types of actions taken by a facility that may be considered retaliatory.
- These actions include, but are not limited to, common ways facilities have retaliated in the past such as restricting access of a resident's visitors, reducing the resident's access to care or services, or terminating an agreement between the resident and the facility.

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Protections Against Retaliation

Step 3

- It creates a review process by which the health department may determine whether retaliation did or did not occur.



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Discharge/Termination Protections

Pre-Termination

- A pre-termination meeting is required
- A permissible reason for termination required

Appeal Rights

- If challenging the reason for termination, resident can appeal to Office of Administrative hearings

Coordinated Transfers

- Facility required to help with discharge process
- Cannot be discharged to unsafe location



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Resident Protections Before 2021

- Some protections are established “now”
 - Anti-retaliation protections
 - Electronic Monitoring
 - Prioritization of Enforcements
 - MDH Issues Guidance on “Lock-outs”
 - Maltreatment Fund



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Resources

- MDH Vulnerable Adult Dashboard: <https://www.health.state.mn.us/facilities/regulation/dashboard.html>
- Minnesota Adult Abuse Reporting Center: <https://mn.gov/dhs/people-we-serve/adults/services/adult-protection/>
- MDH Rulemaking Process: Forthcoming
- MN Ombudsman for Long Term Care: <http://www.mnaging.org/Advocate/OLTC.aspx>
- Our Office Information: <https://elderjusticemn.org/our-services/victim-services/>



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Ombudsman for Long
Term Care

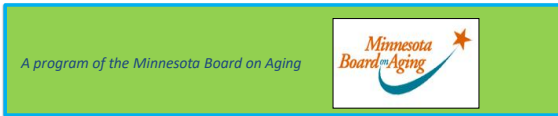
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Office of Ombudsman for Long-Term Care

by: Genevieve Gaboriault, Deputy Ombudsman
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November 4, 2019



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Mission

The Office of Ombudsman for Long-Term Care (OOLTC) works to enhance the quality of life and quality of services for long-term care consumers through advocacy, education and empowerment.

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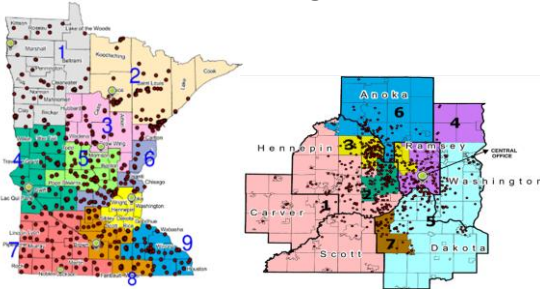


Client Advocacy Who do we Serve?

- **Nursing home residents**
- Licensed Home care clients
- Housing with services tenants
- **Assisted living** and customized living consumers
- Adult foster home 55+ residents
- Boarding care home consumers
- Medicare beneficiaries with hospital access or discharge concerns

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Assisted Living/HWS



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Role: Client Advocacy

- Identify, investigate, and resolve resident complaints
- Advocate for systemic change
- Provide information and consultation to residents and their families
- Inform public agencies about the problems of clients
- Evaluate and report on regulations, laws, policies

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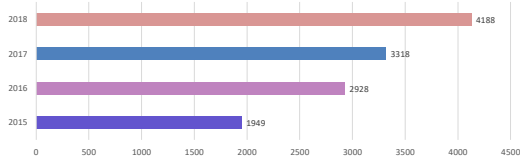
How We Work



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Sharp Increase in Complaints

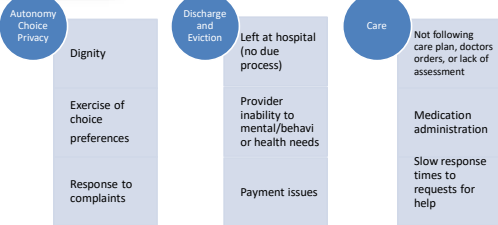


- Complaints rose in every category between 2017 and 2018
- 150% increase in complaints about abuse, neglect, or financial exploitation between 2015 and 2018

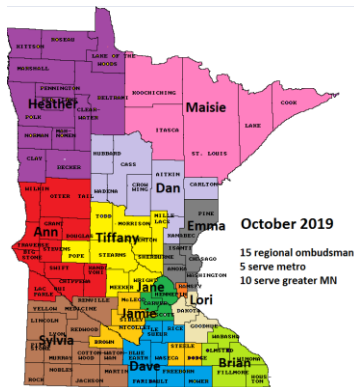
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Common Complaints



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New Legislation Improves Consumer Advocacy

17 Additional Staff for the Office of Ombudsman for Long-Term Care

- Improve the ratio of regional staff per active beds
- Add 1 Deputy Ombudsman and 9 regional ombudsman
- 1 FTE Electronic Monitoring
- 6 additional staff to be hired by January 1, 2021:
 - *This will include regional staff, intake specialist, policy support, data analysis, and volunteer coordination.*

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Assisted Living new laws include OOLTC

- Enhances Resident Rights including Resident Councils
- Notifications to the Office of Ombudsmen for Long-Term Care
 - 27 Notifications to the Ombudsman for Long-Term Care in the Act of the 27 – 5 are in current law.
- Greater stability for residents:
 - Resident, resident representative must be involved in discharge planning and can involve the Ombudsman
 - Resident right to file an appeal with Office of Administrative Hearings

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Thank You

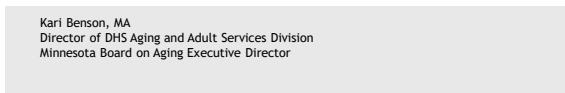
Main intake 651-431-2555 or
Toll Free 1-800-657-3591
TTY, please call 711

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1. Review steps being taken to develop an Assisted Living Report Card for Minnesota
2. Review findings from the University of Minnesota's national research on quality and quality measurement in assisted living
3. Solicit your feedback on the research findings

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Assisted Living Report Card

- The vision for the report card is:
 - to provide information to assisted living residents, families, and the public about assisted living settings to help people make informed decisions
 - to encourage quality improvement efforts among assisted living providers

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Assisted Living Report Card moving forward

- In state fiscal year 2020 we will:
 - Engage with stakeholders about quality research findings (July-November 2019)
 - Summarize stakeholder input in a report (January 2020)
 - Draft and pilot-test resident and family surveys (February-May 2020)
- In state fiscal year 2021 we will:
 - Finalize resident and family surveys (Summer 2020)
 - Implement the surveys across Minnesota (Fall 2020-Winter 2021)

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Assisted Living Report Card moving forward

- DHS will move to implement resident and family surveys to:
 - measure resident quality of life
 - resident and family satisfaction
- Feedback from stakeholders on the quality research findings will help us identify and prioritize quality measurement beyond the resident and family surveys.

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Assisted Living Report Card moving forward

• For project information visit the project webpage:
<https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/aging/assisted-living-report-card/assisted-living-reports.jsp>

• At this site, you can sign-up for a stakeholder email list

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Quality and quality measurement in assisted living

Tetyana Shippee, PhD
 Associate Professor
 Associate Director, Center on Aging
 Division of Health Policy and Management
 School of Public Health



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DHS research contract with the University of Minnesota (January to June 2019)

- Conduct a national review of peer-reviewed literature; a review of "grey literature"; and interviews with national experts
- Create a list of quality domains, subdomains, and existing assisted living quality measures
- Evaluate potential gaps in the research findings
- Engage a technical expert panel from academia, policy, and practice spheres to review the findings
- Prepare a public report of findings
 - The report is available online here:
<https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/aging/assisted-living-report-card/assisted-living-reports.jsp>



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Methods

- 1) We first searched the traditionally published literature using bibliographic databases (e.g. Ovid Medline, CINAHL)
- 2) Grey literature search to supplement the published literature.
 - We conducted this search by reviewing the references listed in articles and reports and websites of highly relevant organizations and states
- 3) We conducted key informant interviews and technical expert panels.
 - The interviews included national experts in quality measurement and assisted living, including academics, providers, and policy makers

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Results

- We initially identified 833 references
 - Title and abstract screening eliminated 719 references
 - We screened the full text of 160 references
 - We excluded 111 references because there were not based in the U.S., did not address assisted living quality, did not provide domains or indicators, or were published prior to 2005.
- Total=49 peer-reviewed references, and an additional 45 references from grey literature sources
- We conducted 12 in-depth interviews and 2 technical expert panels

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Research finding: Domains of quality in assisted living

Resident Quality of Life	Resident / Family Satisfaction	Staff
Safety	Resident Health Outcomes	Social Environment
Physical Environment	Care Services	Service Availability

10/14/2019

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Key findings

- Based on all data sources, *quality of life* and *satisfaction* emerged as essential measures of AL quality.
- However, as AL residents become increasingly more complex and have higher clinical care needs, *staffing* and *resident health outcomes*, along with other identified domains, are also of vital importance.



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Online Stakeholder Survey

- We will gather your feedback in this session, but we encourage you to provide additional feedback through an online survey.
- Survey link:
z.umn.edu/assistedliving



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Feedback on domains of quality in assisted living (discussion time)

1. Do these domains and subdomains reflect your experiences and observations of assisted living?
2. Are there surprises or gaps related to these domains and subdomains?



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Watch for the evaluation!

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**MN Leadership
Council on Aging**

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