

POLICY AND PROCEDURE PERTAINING TO ASSISTED LIVING CONTRACT TERMINATIONS, RELOCATIONS, COORDINATED MOVES

POLICY

It is the policy of Gleseners Assisted Living (GAL).to ensure our assisted living contract terminations follow Minnesota Statutes 144G.52 process.

For the purpose of sections or 144G. 52 to 144G.55 “termination” means:

- A facility-initiated termination of housing provided to the resident under the contract; or
- A facility-initiated termination or nonrenewal of all assisted living series the resident receives from the GAL under the contract

PURPOSE:

To define and clarify the termination of contract process while ensuring that the resident promote continuity of care and service coordination.

PROCEDURE

I. Types of Terminations

- A. Reasons for a GAL to terminate a resident contract include, for nonpayment and for violations to the assisted living contract. Under certain circumstances, the provider may terminate a resident’s contract in an expedited manner.
1. GAL may terminate the resident contract for nonpayment of rent or assisted living services. Under this scenario, GAL must inform the resident that public benefits may be available to them and must provide contact information for the Senior Linkage Line in the notice of termination. An interruption in the payment of a resident’s waiver services or other public benefits for 60 days or less does not constitute nonpayment.
 2. GAL. may terminate the assisted living contract if the resident violates the contract and does not cure the violation within 30 days after the GAL notifies the resident in writing of the ability for them to cure the violation. The written notice to the resident can be delivered in person or through the US mail. GAL does not need to provide written notice of the ability to cure the violation if the violation threatens the health or safety of the resident or another person in the GAL or if the violation constitutes an illegal act.
 3. There are circumstances where GAL may initiate an expedited termination to a resident. These include if the resident engages in conduct that substantially interferes with the rights, health, or safety of other residents or if the resident engages in conduct that substantially and intentionally interferes with the safety or physical health of GAL staff or if the resident commits an unlawful act listed in Landlord and Tenant Statutes 504B.171 that substantially interferes with the rights, health, or safety of other residents. An expedited termination may also be issued if extraordinary circumstances exist that causes GAL to be unable to provide these services to the resident. In addition, if the assessed needs of the resident exceed the scope of services agreed to in the assisted living contract and are not listed in the services disclosed by GAL in their uniform checklist, the GAL may seek termination or expedited termination of the resident contract. In this scenario, GAL must provide the assessment that forms the reason for the expedited termination and the name and contact information of any medical professional who conducted the assessment along with the termination notice to the resident.
- B. GAL cannot terminate the assisted living contract if the resident obtains services from another provider of their choosing, which resolves the reason for the proposed termination.

II. Pre-termination meeting

- A. Before issuing a notice of contract termination to a resident, GAL must schedule and participate in a pre-termination meeting with the resident, their legal representative, and their designated representative. Written notice of the pre-termination meeting must be provided to the resident and their representatives at least five business days prior to the scheduled meeting. If the resident receives home and community-based waiver services, the resident's case manager must be notified at least five business days before the meeting by the facility. GAL must schedule and participate in the pre-termination meeting and make reasonable efforts to assure the resident and their representatives are able to attend the meeting. If an in-person meeting is impractical or impossible, GAL may schedule and participate in a meeting via telephone, video, or other electronic option. The pre-termination meeting must take place at least seven days before a notice of termination is issued.
- B. If the resident or their representatives do not cooperate in the scheduling of the pre-termination meeting or do not attend a properly noticed meeting, GAL may issue a notice of termination as long as the GAL can demonstrate its reasonable efforts to assure the resident and their representatives attended the meeting and that proper notice was provided to all parties. If the resident or their representatives don't comply with agreements reached at the pre-termination meeting, GAL can move ahead with a notice of termination without holding another pre-termination meeting, as long as the notice of termination is provided at least seven days prior to notice being issued.
- C. In the notice of the pre-termination meeting, GAL must propose a date, time, and location for the meeting, include an explanation of the detailed reasons for the proposed resident contract termination and a list of individuals from the GAL that will attend the meeting, GAL must notify the resident that they can invite family members, representatives, relevant health professionals, a representative of the Ombudsman for Long Term Care, or other persons of the resident's choosing. GAL must include a statement that the Ombudsman provides advocacy services to residents as well as contact information for the Office of Ombudsman for Long Term Care and the Office for Ombudsman for Mental Health and Developmental Disabilities. The name and contact information of an individual at GAL whom the resident may contact regarding the pre-termination meeting or to request an accommodation. The notice must include a statement that the meeting attendees may request reasonable accommodations for a communication disability or if they speak a language other than English. A statement must be included that if the resident's housing or assisted living services are terminated, the resident has the right to appeal under part 4659.0210 and Minnesota Statutes, section 144G.54. GAL must also provide written notification to the resident, their representatives and the resident's case manager (if applicable) of any change to the date, time, or location of the meeting.
- D. The purpose of the meeting is for GAL to explain in detail the reasons for the proposed termination. At the pre-termination meeting, GAL must collaborate with the resident, their representatives, case manager (if applicable) and others invited by the resident to identify and offer reasonable accommodations, modifications, interventions, or alternatives to avoid the termination and allow the resident to remain in the facility. This may include setting up services with another assisted living services provider of the resident's choosing. GAL does not need to offer accommodations, modifications, interventions, or alternatives that fundamentally change the operation of the facility.
- E. In the event of an emergency relocation, such as due to a resident's medical needs or if they pose an immediate risk to the health or safety of another resident or staff person, and GAL intends to issue a notice of termination (as an example, a resident is hospitalized and the assisted living GAL does not intend to allow the resident back to the assisted living), and an in-person pre-termination meeting is impractical or impossible; GAL must utilize telephone, video conference or other electronic option for the meeting. In this scenario, GAL must assure the resident, their representative, a representative from the Ombudsman Office and the resident's case manager (if

applicable) are able to participate in the meeting. GAL must also make reasonable efforts to assure anyone else the resident invites to the meeting is able to participate.

- F. If the pre-termination meeting is held after an emergency relocation, GAL must notify the resident, the resident's representative, and case manager (if applicable) at least 24 hours prior to the meeting. The notification must include the same information identified above in the pre-termination meeting notification. In addition, the notice must include detailed instructions on how to access the means of communication for the meeting.
- G. Within 24 hours after the pre-termination meeting, GAL must give the resident, resident's representatives, and case manager if present at the meeting a written summary of the meeting, including any agreements regarding accommodations, modifications, interventions, or alternatives that will avoid the termination of the resident's assisted living contract.

III. Termination Notices

- A. GAL must provide the notice to the resident by hand delivery or first-class mail (to the resident's last known address). Service of the notice must be proved by affidavit of the person effectuating service. GAL must also send a copy of the termination notice to the Office of the Ombudsman for Long Term Care as soon as possible, but not later than two business days after the GAL provided notice to the resident. The notice to the Ombudsman must include the resident's phone number. If the resident doesn't have a phone number, provide the phone number of the resident's representative or case manager (if applicable). If the resident receives home and community-based services waiver services, GAL must also send a copy of the termination notice to the resident's case manager.
- B. If GAL is terminating a resident's contract for nonpayment or a violation of the contract, the GAL must provide a written termination notice at least 30 days before the effective date of termination. The notice must be provided to the resident, the resident's legal representative and the resident's designated representative.
- C. If GAL is terminating a resident's contract under an expedited termination, the GAL must provide a written notice of termination at least 15 days prior to the effective date. The notice must be provided to the resident, the resident's legal representative and the resident's designated representative.
- D. If a resident initiates terminating the assisted living contract by moving out or canceling services received from GAL, the resident must abide by the notice periods dictated in the assisted living contract with the GAL.
- E. The termination notice provided to the resident and their representatives by GAL must contain the following information:
 - 1. The effective date of the termination.
 - 2. A detailed explanation of the reasons for the termination including any supporting rationale.
 - 3. A detailed explanation of the conditions that a new or amended contract may be created with the resident. As an example, if a resident hoards things the contract could be amended that if they allowed professional cleaners to clean their apartment and they maintain the cleanliness of the apartment the contract would not be terminated.
 - 4. The termination notice must include a statement that the resident has a right to appeal the termination by requesting a hearing, the timeframe the resident must submit an appeal and the contact information for the agency where the appeal must be submitted, as detailed in Minnesota Statutes chapter 14 and Minnesota Rules 1400.5010 to 1400.8400.
 - 5. A statement that the GAL will assist the resident in a coordinated move to another provider or caregiver.
 - 6. The name and contact information for the facility's employee that the resident can discuss the termination notice with.
 - 7. Information on how to contact the Office of Ombudsman for Long Term Care for a resident advocate.

8. Information on how the resident can contact the Senior Linkage Line and that they can provide the resident with information about other available housing and service options.
- F. If the termination is only for services, the notice must include a statement that the resident can continue to live in the GAL and obtain services from another provider of their choosing.

IV. Emergency Relocation

- A. GAL may remove a resident under an emergency relocation if the relocation is due to the resident's urgent medical needs or if they pose an imminent risk to the health or safety of another resident or staff member. An emergency relocation is not considered a resident contract termination.
- B. When GAL enacts an emergency relocation, they must deliver, as soon as practicable, a written notice to the resident, their legal representative, and their designated representative. The notice must be delivered to the resident's case manager if the resident is receiving home and community-based waiver services. The notice must also be delivered to the Office of Ombudsman for Long Term Care as soon as practicable and within 24 hours if the resident has relocated and not returned to the GAL within four days. The notice must include:
 1. The reason for the relocation,
 2. The name and contact information for the location and service provider where the resident is being relocated, and
 3. The contact information for the Ombudsman for Long Term Care.
 4. If known and applicable, the estimated date or date range of when the resident is expected to return to the facility. If the date or estimated date is not known, the notice must include a statement that the return date is not known.
- C. If the GAL refuses to provide housing or assisted living services to the resident after their relocation, the written notice must include a statement that the resident has the right to appeal and the contact information for where the resident must submit their appeal. The facility's refusal to provide housing or assisted living services following a resident relocation will be considered a contract termination and as a result, the termination requirements must be met.
- D. If a resident is absent from GAL for any reason, including an emergency relocation, the GAL must allow the resident to return to the GAL if no termination of housing has been implemented.

V. Nonrenewal of Housing

- A. If GAL doesn't renew a resident's housing contract, the GAL must, either provide the resident a notice 60 calendar days prior to the nonrenewal of the housing contract, as well as provide the resident with assistance for relocation planning; or follow the contract termination requirements. The notice of nonrenewal must include the reason for the nonrenewal and the contact information for the Ombudsman for Long Term Care,
- B. In addition to providing the notice to the resident, GAL must also provide the notice to the Ombudsman for Long Term Care and to the resident's case manager if they receive home and community-based services. GAL must ensure a coordinated move to a safe location that is appropriate for the resident. If the resident needs assisted living services and wants them, then GAL must also ensure a coordinated move to another appropriate service provider. GAL must consult and cooperate with the resident, their legal representative, their designated representative, case manager (for those residents receiving home and community-based services), the resident's relevant health professionals and any other individuals the resident chooses to make the moving arrangements while considering the resident's goals. GAL must also create a written moving plan to assist the resident.

VI. Appeals of Contract Terminations

- A. An assisted living resident has the right to appeal a contract termination if the termination is for nonpayment, a violation of the assisted living contract or is an expedited termination. The reasons for the resident's appeal must be one or more of the following: A factual dispute over whether GAL has an allowable reason for the termination, if the termination would cause or have the potential to cause great harm to the resident except in situations where there is a greater risk of harm to other residents or staff at the GAL if the resident remained at the facility, the resident has cured or shown the ability to cure the reasons for the termination or has identified a reasonable accommodation, modification, intervention or alternative to the termination, GAL has violated state or federal law by terminating the assisted living contract.
- B. If the termination of the assisted living contract is due to nonpayment or a violation of the assisted living contract, the resident has 30 days from receipt of GAL written notice to appeal the termination. The resident has 15 calendar days from receipt of GAL written notice of an expedited termination to appeal the termination. The resident or a representative acting on behalf of the resident must contact the Minnesota Department of Health in writing within the above timelines to request an appeal of the termination. If the resident or their representative does not request an appeal hearing within the above timelines, they waive the right to an appeal hearing.
- C. The Office of Administrative Hearings is the agency that will conduct an appeal hearing. The hearing must be conducted in an expedited process and take place as soon as practicable, but no later than 14 calendar days after the Office of Administrative Hearings is in receipt of the request for hearing unless the Chief Administrative Law Judge determines under Minnesota Statutes, section 144G.54, subdivision 3, paragraph (c), that the hearing should be a formal contested case proceeding; in which case the proceedings will be held according to Minnesota Statutes chapter 14 and Minnesota Rules 1400.5010 to 1400.8401.

The appeal hearing must be held at GAL unless that location is impractical, the parties agree to a different location, or the Chief Administrative Law Judge agrees to a party's request to a different location or conduct the hearing via telephone or video conference. The parties are not required to be represented by attorneys. If the resident is not able to represent them self or wishes to have an individual present on the resident's behalf, the individual of the resident's choosing may present the resident's appeal to the Administrative Law Judge on the resident's behalf. If a resident is not represented at a hearing, the Administrative Law Judge will take appropriate steps identify and develop relevant facts necessary to make an informed and fair decision. An unrepresented resident will be given an adequate opportunity to respond to testimony and evidence presented at the hearing.

The Administrative Law Judge will assure an unrepresented resident has a full and reasonable opportunity to establish a record for their appeal at the hearing. The Administrative Law Judge will issue a recommendation to the Minnesota Department of Health's Commissioner within ten business days after the hearing.

The Commissioner may issue a final decision within 14 calendar days of the Administrative Law Judge's recommendation. Within the first seven of those 14 calendar days, the GAL and resident may submit additional written arguments to the Commissioner for their consideration. If the Commissioner does not issue a final order within 14 calendar days of the Administrative Law Judge's recommendation, the recommendation of the Administrative Law Judge shall be the final order. Final orders may be appealed according to Minnesota Statutes, sections 14.63 to 14.69.

- D. If the appeal alleges there was a factual dispute whether GAL was allowed to initiate the termination or GAL terminated the contract in violation of state or federal law, the burden of proof is with GAL to prove the appeal was allowable under the laws. The resident has the burden of proof if the appeal is based on the termination causing great harm or potential for great harm to the resident or if the appeal is based on the resident curing, demonstrating the ability to cure the reasons for the termination or the resident has identified a reasonable accommodation, modification, intervention, or alternative to the termination.
- E. If the resident wins the appeal, the termination must be rescinded by GAL. The judge's order may contain requirements of the resident in order to continue living in the GAL or continue to receive services. The requirements may include changes to the resident's service plan or require an increase in services.
- F. While an appeal is pending, the termination of housing or assisted living services cannot be enacted. If the resident requires additional services to meet their health and safety needs while the appeal is pending, GAL must inform the resident's representatives and case manager (if applicable) that the resident is responsible for contracting with GAL or another provider for the necessary services and is responsible for the payment of those services.
- G. A resident may not challenge a termination that has occurred and been upheld under the Landlord and Tenant laws.

VI. Coordinated Moves

- A. If GAL terminates a resident's contract, reduces assisted living services to the point where the resident must move or conducts a planned GAL closure, GAL must meet specific requirements of a coordinated move of the resident. GAL must assure that the coordinated move of the resident is to a safe, appropriate location (defined below) and appropriate service provider for the resident (including moves to a different location within the same facility). GAL must also identify the location and service provider prior to any appeal hearing. GAL must cooperate with the resident and their representatives (legal representative, designated representative, relevant health professional, case manager if receiving home and community-based services and any other individuals the resident chooses) to make the arrangements to move the resident in consideration with the resident's goals.
- B. A resident has the right to not move to the location or use the service provider identified by GAL and instead move to a location and utilize a service provider they choose. If the resident does this, they must move and/or transition to another service provider within the timeline identified in the termination notice.
- C. If GAL plans to reduce or eliminate one or more services for a resident, the GAL must provide a 60-day written notice to the resident with the following information included. (If there are extraordinary circumstances that would cause an unanticipated reduction in services, the GAL must provide the notice to the resident as soon as possible.):
 - 1. A detailed explanation of the reasons for the reduction of services and the effective date.
 - 2. The contact information of the person employed by GAL whom they can discuss the reduction with.
 - 3. The contact information for the Ombudsman for Long Term Care.
 - 4. A statement that if the reduced services are still needed by the resident, the resident can still live in the GAL and obtain assisted living services from another provider.
 - 5. A statement that if the reduced services makes the resident need to move GAL must follow the coordinated move requirements above.
- D. If GAL, the resident, the resident's legal representative or designated representative decides that the reduced services will require the resident to move, GAL must follow the coordinated move requirements above and must provide notice to the Ombudsman for Long Term Care. The resident continues to have the right to not move and remain in the GAL and obtain assisted living services from another provider.

- E. A safe location for the resident to move to is not a private home where the occupant isn't willing or isn't able to provide the care needed by the resident. A safe location is also not a homeless shelter or a hotel/motel. GAL may not terminate the resident's housing or assisted living services if the termination would cause the resident to become homeless. GAL also cannot terminate the resident's housing or assisted living services if an adequate and safe location or service provider has not been identified.
- F. If GAL terminates the resident contract or the resident decides to move because the GAL has begun the pre-termination or termination process, GAL must have a planning conference with the resident, the resident's representative, the resident's case manager if receiving home and community-based services and other individuals invited by the resident and develop a written relocation plan to prepare for the move to the new GAL or service provider. GAL must create a written resident relocation evaluation which will be included in the resident relocation plan. The resident relocation evaluation must include the resident's current service plan, a list of safe and appropriate housing and service providers located in reasonably close proximity to the GAL and are able to accept new residents, the resident's needs and choices and the resident's right to tour the safe and appropriate location and service provider, if applicable, prior to moving.

GAL must provide a written copy of the resident's relocation evaluation to the resident, their representatives and case manager (if applicable) as soon as possible but before the planning conference. In addition to the resident relocation evaluation, the relocation plan must include the date and time the resident will move, the contact information of the new facility, how the resident, their personal belongings, including pets will be transported to the new facility, how the GAL will store and care for the resident's belongings, recommendations to assist the resident to adjust to the new facility, recommendations addressing the stress a resident with dementia may experience when moving to a new GAL (if applicable), recommendations to assure the safe and appropriate transfer of the resident's medications and durable medical equipment, the arrangements that have been made for the resident's follow-up care and meals, a plan for transferring and reconnecting phone, internet and any electronic monitoring equipment, and identify who is responsible for paying moving expenses and how the expenses will be paid.

GAL must implement the relocation plan and comply with the coordinated move requirements. GAL must also provide a copy of the plan to the resident and if the resident consents, to their representatives and case manager (if applicable).

- G. GAL must provide the following information regarding the resident's relocation to the new, receiving GAL or service provider. With the resident's knowledge and consent, the following information from the resident's record:
1. the resident's full name,
 2. date of birth,
 3. insurance information,
 4. the name, telephone number and address of the resident's designated representative and legal representative (if any),
 5. the resident's current diagnoses relevant to the services provided,
 6. the resident's known allergies relevant to the services provided,
 7. the name and telephone number of the resident's physician and the current physician orders relevant to the services provided,
 8. all medication administration records relevant to the services provided,
 9. copies of health care directives, do not resuscitate orders and any powers of attorney or guardianship documentation.

- H. In addition to the resident's record information, with the resident's consent, the GAL must provide to the receiving facility:
1. The name and address of the facility,
 2. The resident's admission and discharge dates and
 3. The name and address of a person at the gal that can be contacted for additional information.
 4. The names and addresses of any significant community or social contacts which the resident had identified to the facility,
 5. The resident's most recent service plan if they received services by the facility, and
 6. The resident's current do not resuscitate order and physician order for life sustaining treatment if they had any.
- I. At the time of discharge, GAL must provide to the resident and with their consent, to their representative and case manager (if applicable) a discharge summary that includes the following:
1. A summary of the resident's stay at the GAL that includes their diagnoses,
 2. Courses of illnesses,
 3. Allergies,
 4. Treatments/ therapies,
 5. Pertinent labs, radiology, and consultation results,
 6. A final summary of the resident's status including their baseline and current mental, behavioral, and functional status from their latest assessment,
 7. A reconciliation of their pre-discharge medications with their post-discharge medications including over the counter medications.
- J. GAL must also include a post-discharge care plan that was developed with the resident and if the resident approves, their representatives which will help the resident adapt to living at a new location. The post-discharge care plan must include where the resident will live, any follow up care arrangements, and any post-discharge medical and nonmedical services the resident will need.
- K. GAL must follow the requirements in this section if our license is restricted by the Minnesota Department of Health to the point that a resident must move or obtain a new service provider.
- L. Required Notices and Process to Submit to OOLTC under AL Law
- M. Under the assisted living (AL) law, GAL must submit listed notices to the Office of Ombudsman for Long-Term Care (OOLTC). A [Cover Sheet for AL Notice to OOLTC](#) has been developed to accompany every notice to OOLTC. Only select one type of notice per submission.
- N. Notices must be submitted to the fax number 651-431-7452 or emailed to ALnotices.OOLTC@state.mn.us.

REFERENCED POLICIES

None

REFERENCED FORMS

[Cover Sheet for AL Notice to OOLTC](#)