



Assisted Living Small Provider Survey Results Report

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Executive summary

In November 2023, Minnesota Department of Health (MDH) conducted a survey of all assisted living licensees who had a facility licensed for ten beds or fewer. The survey asked providers to tell us about their business and the burdens they face in complying with assisted living laws as a small provider.

Demographics

- Most respondents are facility owners, often holding multiple roles within the facilities.
- Over half of the facilities are owned by women.
- Approximately one quarter of owners are Black, Indigenous, and People of Color (BIPOC).
- Most respondents operate a single facility with one to five licensed beds, predominantly located in Hennepin County.
- Staff and residents represent diverse cultures and speak 23 languages. Somali, Spanish, Amharic and Oromo are the most common languages after English.

Top burden areas

1. Staffing retention.
2. License transferability — the ability to change locations without having to apply for a new license.
3. Kitchen/food code compliance unique to single-family-style facilities.
4. Reimbursement from Minnesota Department of Human Services (DHS).
5. Licensed staff requirements.
6. Emergency preparedness plans.

Proposed solutions

Respondents proposed various solutions to address these burdens, including increasing staff wages, creating the ability to transfer a license to a new facility, flexibility in meeting food code requirements and flexibility in creating emergency preparedness plans based on the needs of a small facility.

Additional burdens

Respondents also highlighted additional burdens, such as time-consuming licensure processes, age restrictions on clientele, and challenges in dealing with regulatory agencies and landlords.

Assisted living small provider background

Minnesota's assisted living licensure law, *Minnesota Statutes, Chapter 144G*, was created by the legislature in 2019. The license type went into effect on August 1, 2021. Housing with Services licenses under 144D were required to apply and transfer to the new assisted living licensure.

The MDH Health Regulation Division is responsible for overseeing the licensing of assisted living facilities. As of February 12, 2024, there are 2,222 licensed assisted living facilities in Minnesota. This number includes 1,337 facilities that are licensed for 10 beds or fewer. Among current provisional licensed facilities (new facilities in their first year of practice and awaiting full licensure upon passing their survey), small facilities with 10 beds or fewer account for 90%¹ of those provisional licenses.

In 2023, the legislature tasked MDH and DHS with identifying regulatory burdens unique to these smaller facilities², whose settings are different from larger, apartment building-style assisted living facilities.

Assisted living updates work group

MDH and DHS convened a work group of thirty interested stakeholders, who represented small providers, provider organizations, consumer advocates, and state and local government agencies. The work group began in March 2023 to identify and discuss regulatory burdens of assisted living licensure for small providers. The resulting list of identified burdens from this group was:

- Kitchen/food code requirements including meal preparation.
- Licensing (timing, cost, renewal, process).
- Reimbursements (payment from DHS for waived services).
- Staffing.
- Physical environment requirements.
- Training.
- Closures and involuntary receiverships.

The work group split up into subgroups to discuss these topics and identify specific problems in these areas that small providers experience, especially those that are run in single-family-style homes. Each subgroup was tasked with coming up with proposed solutions that would allow small facilities to meet the needs and safety requirements for their clients in a way that is designed for their business model.

¹ There are currently 259 provisional Assisted Living Facilities, and 234 of those have a licensed bed capacity of 10 or fewer.

² 2023 *Minn. Law*, Chapter 61, Art. 1, sec. 39

Survey structure and overview

Survey methodology

After the work of the stakeholder workgroup was mostly completed, the department decided that a survey of every assisted living licensee with 10 or fewer beds would be necessary to compare the workgroup's results with the perceptions and concerns of the small provider community at large. The goals of the survey were to:

- Confirm the burdens identified in the workgroup were also burdens other small providers experienced.
- Identify additional burdens that were not mentioned in the workgroup.
- Allow providers to weigh in on potential solutions to the burdens.
- Communicate anonymously with MDH and DHS about anything they would like us to know about being a small assisted living provider under the new license.

Minnesota Information Technology Services (MNIT) constructed a survey using Verint software, which was sent via email to every licensed provider in Minnesota who ran a facility that was licensed to serve 10 or fewer residents. Each email had a unique link to ensure that each licensee answered the survey one time. The survey was sent to 844 licensees, representing 1,338 licensed facilities in Minnesota with ten or fewer licensed beds³.

Survey structure

The survey was divided into four sections. The first section was a demographic page to learn about the respondent and their facility.

The second section, which is the largest, listed 11 burden areas that were identified by the workgroup plus an "Other" category where respondents could report additional burdens. The burden areas are:

- Staffing retention.
- License transferability.
- Kitchen/food code, reimbursements.
- Licensed staff requirements.
- Emergency preparedness plans.
- Physical environment requirements.
- Termination requirements.
- License application.
- Closure requirements.
- Required staff training.
- Closure requirements.

³ While most licensees own only one facility, there are licensees who have multiple facilities.

The respondent could choose multiple burden areas. For each burden a respondent selected, a new page would open in the survey to collect additional information about the burden and ask the respondent to rate potential solutions. There were blank sections to add comments on every page.

The third section asked about how small providers receive communications from MDH and DHS, how they would prefer to receive information, and gave an open opportunity to tell MDH and DHS anything they would like us to know, with anonymity.

The fourth section allowed respondents to provide optional demographic information to learn more about the make up of the business, ages of residents, and languages spoken by staff and residents.

Statistical overview

- Small Provider Regulatory Burden Survey was open from Nov. 1-17, 2023.
- Out of 327 respondents, 231 completed survey and clicked “Submit.”
- Location of respondent organizations:
 - 57% of respondents had facilities located in Hennepin County.
 - 33% were from non-Hennepin metro counties.
 - 10% had facilities located in Greater Minnesota.
- Optional demographics: 64% of the respondents who completed the survey opted-in to provide demographic data: *Age of Residents and Staff and Resident Languages Spoken.*

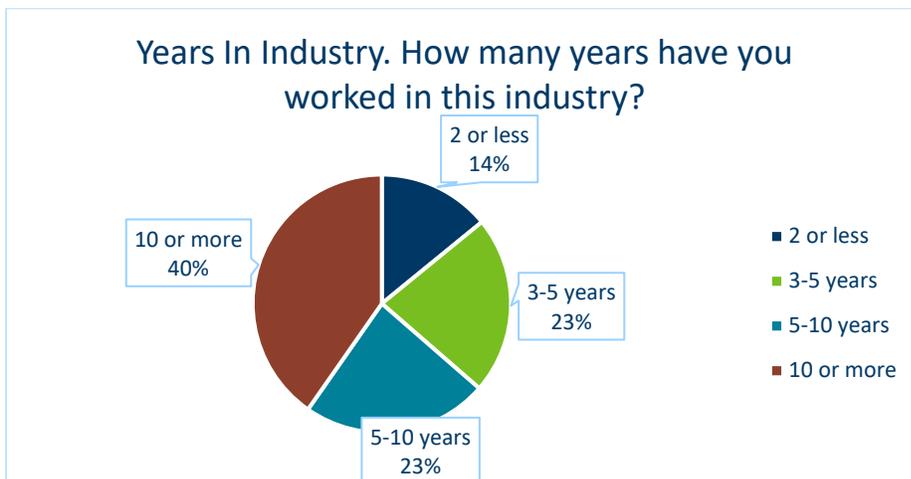
Respondent information

The survey started with questions to better understand the business of the small provider facilities. Because the survey was sent to the provider’s permanent business email address identified on the licensee application, we wanted to know who was responding to the survey. Eighty-two percent of respondents identified themselves as the owner.

Additionally, fifty-six percent of respondents had more than one official role in their assisted living facility. The most common combinations were owners who are also the licensed assisted living director (128 people), owners who were also the registered nurse for the facility (72), and licensed assisted living directors who were also the registered nurse for the facility (70).



Respondents were asked about their experience in the assisted living/home care with services industry. A plurality of respondents (40.3%) had 10 years or more in the industry, in any capacity.



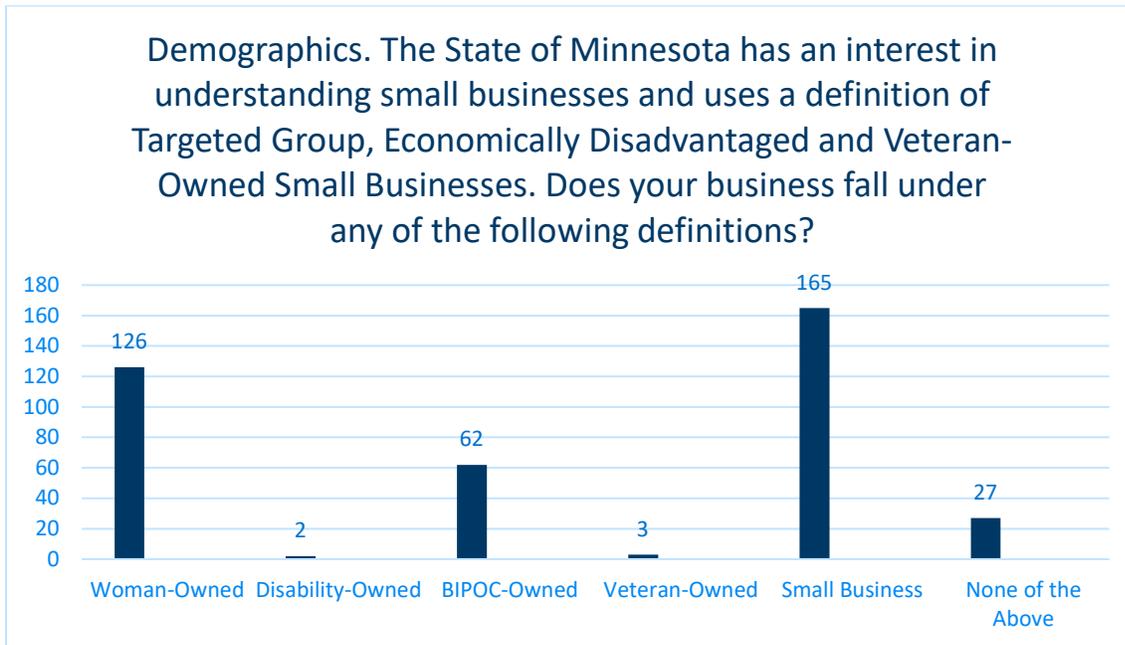
Respondent demographics

The survey asked respondents to self-identify if their business met the Department of Administration’s definition of a targeted group, economically disadvantaged, or veteran owned small business. Each category is defined by being 51% or more owned and operated by:

- A woman.
- A person with disabilities.
- A person of color or American Indian.
- A veteran who is certified by the Department of Veterans Affairs.

To be considered economically disadvantaged, the business must be located in a specific Minnesota county designated by the Department of Administration. To be considered a small business, the company cannot exceed \$11 million in revenue a year. Of the 385 licensees who

responded, a majority of facilities meet the definition of a small business, are owned by women and over a quarter are owned by a member of BIPOC communities.



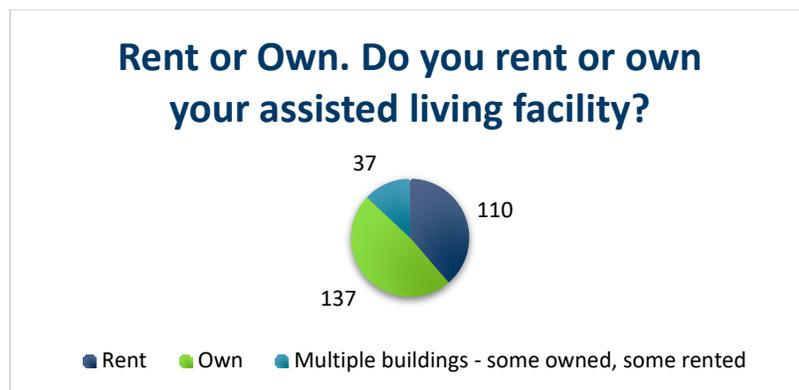
Facility information

Most respondents operate only one facility (169 licensees, or 62.4%), with only 12 respondents managing more than four facilities. Most facilities have 1-5 licensed beds each (253 facilities, or 80%), while 62 facilities (20%) have between 6-10 licensed beds. This distribution aligns with all assisted living facilities in Minnesota, where 1,085 facilities have 1-5 beds and 253 facilities with 6-10 beds.

Regarding location, most sites are situated in Hennepin County, followed by the rest of the seven-county metro area, with Greater Minnesota representing 10% of the respondents. This geographical distribution mirrors the total number of small provider facilities in Minnesota.

- Hennepin County: 178
- Other metro county: 101
- Greater Minnesota: 32

Facilities are divided between licensees who own the building their facility occupies and those who rent the building.



Staff and resident languages

Respondents were asked to self-report the languages spoken in their small facilities. While acknowledging the imprecision of this measure in assessing culturally specific care, it underscores the diverse linguistic landscape within small assisted living facilities.

Staff members of the respondents speak a total of 23 languages. English emerged as the primary language (83%), followed by Somali (23.4%), Spanish (11.7%), Amharic (8.8%), and Oromo (7.3%).

Residents living in the respondents' facilities speak 21 different languages, with English ranking the highest (88.3%), followed by Somali (9.5%), Spanish (8%), and Hmong (3.6%).

Key burden areas

The top six burden areas identified by small providers including staffing retention (60% of respondents), license transferability (52%), kitchen/food code (48%), reimbursements (43%), licensed staff requirements (42%), emergency preparedness plans – appendix Z (41%).

There was no ranking option for respondents to add weight to each of their choices; however, the rate of selection for each burden shows the most common issues among small provider facilities. Further examination of the responses would be necessary to determine the scale and pervasiveness of each burden, to help decide whether additional system or policy changes are needed.

Staffing retention (60%)

Staff retention emerged as the most cited burden:

- 87% identified paying a sufficiently high salary as a challenge.
- 77% reported difficulty in finding and recruiting staff.
- 73% struggled with retaining staff.

The primary solution proposed to address this issue was “increasing reimbursement to raise wages or offer bonuses,” which was ranked as the top choice 79% of the time among five options.

Additional solutions from respondents included:

- Remove age barrier for admission of clients.
- Make tuberculosis testing mandatory within 30-60 business days and not before the start of the job as it poses as a challenge for caregivers in this sector.
- Offer full time job benefits including health care and dental benefits, tuition reimbursement and retirement benefits for assisted living care givers.
- Enhance wages through reimbursement.
- Streamline training requirements for unlicensed personnel.

License transferability (52%)

License transferability refers to the ability to relocate an assisted living facility to a new building without needing to apply for a new license. This issue is particularly pertinent to small providers, many of whom lease their building. Of those surveyed:

- 84% cited concerns over lease agreement termination and the inability to transfer licenses.
- 54% expressed worries about the financial strain associated with obtaining a new license.

In total, over 52% of small providers reported renting one or more buildings. The most popular solution, chosen 79% of the time among three options, was “Ability to transfer assisted living license with fewer steps than a full re-licensure”. Other proposed solutions from respondents included:

- Allowing transfers to a new address under the same license.
- Allowing the existing grandfather clause related to waived payment services for small facilities serving residents under 55 to transfer to a new building.
- Removing restrictions on transfers.
- Reducing the financial burden during the licensure process by shortening its duration.

Kitchen/food code (48%) top factors

Kitchen and Food Code issues significantly impact residential, single-family-style facilities that lack a commercial-style kitchen. Original code was designed for large, apartment-style assisted living facilities with commercial kitchens, but it poses a challenge for a small, single-family-style facilities. Among the top burdens identified in the survey:

- 57% said they do not have commercial grade appliances.
- 55% highlighted financial constraints.
- 54% expressed concern regarding hiring and training a certified food program manager (CFPM) for each facility.

- 49% faced limitations in altering the physical space/structure in the rental facility.
- 42% lacked adequate handwashing sinks.

Additionally, 69% of respondents felt confident in understanding requirements for serving same day prepared meals. The most frequently recommended solutions were statutory changes to relax certain standards (50%) and allowing a CFPM to oversee multiple facilities (43%).

Notably, 99% reported serving meals on the same day as preparation due to the inability to use the leftovers without a commercial-grade refrigerators, with over 47% viewing this as burdensome.

When asked about physical environment requirements, 72% of respondents said that meeting the kitchen and food code requirements were a burden in meeting overall physical environment standards.

Additional solutions proposed by respondents included:

- Allowing CFPM to oversee multiple facilities.
- Tailoring regulations for small facilities to be different from large ones.
- Aligning regulations with those for day care facilities.
- Mandating food code training for all staff, thereby permitting the use of leftovers for a specified duration of time or X number of days.

Reimbursement (43%)

Reimbursement is a critical aspect for service providers. For most small providers, the primary source of revenue stems from customized living waived services: Brain Injury (BI) and Community Access for Disability Inclusion (CADI) waivers.

- 96% of respondents highlighted inadequate reimbursements from waivers to cover the costs of Assisted Living statutory requirements, with Elderly Waiver requirements creating the most concerns at nearly 92%, CADI at 59% and BI at 26%.
- 54% noted it was burdensome that facilities cannot mandate residents to include and pay for meals in their contracts.

Licensed staff requirements (42%)

This burden relates to the need of hiring and retaining licensed personnel with specialized certifications. Staffing and staffing retention emerged as the most frequently cited stressor for small facilities, and maintaining registered nurses (RN), licensed practical nurses (LPN), and licensed assisted living directors (LALD) posing the greatest difficulty.

Providers proposed various ideas to mitigate this burden:

- Increase reimbursements to enable offering higher wages.
- Simplify or eliminate LALD requirements.
- Implement a system of shared CFPM for multiple smaller facilities within a 60-mile radius.
- Simplify the LALD licensing process.

- Accessing mentors has exposed them to unnecessary financial pressure.
- Permit hiring LPNs for RN duties or allow LPNs to undertake some RNs responsibilities.

Emergency preparedness plans – Appendix Z (41%)

Emergency preparedness plans, particularly those outlined in Appendix Z of the Centers for Medicare & Medicaid Services' *State Operations Manual*, represent a significant burden for small assisted living facilities. Providers responded that they encounter difficulties in complying with emergency plans that sometimes do not apply to them and have been written for larger apartment style assisted living facilities. They noted difficulty complying with:

- Establishing processes for cooperation and collaboration with local, tribal, regional, state, and federal emergency plans.
- Arranging partnerships with other facilities or providers.
- Most respondents asked for more flexibility on meeting the requirements of a preparedness plan that has less impact on their residents because these facilities are small-single-family-home style.

Additional respondent solutions included:

- Eliminating Appendix Z requirements for small assisted living facilities.
- Decreasing the frequency of fire drills.
- Ensuring consistency in the requirements and accessibility of resources.

Additional burdens identified

The survey included an open-ended question for respondents to identify additional burdens to others mentioned elsewhere in the survey: *“Are there any other burdens regarding the Assisted Living Licensure you would like us to know about?”*

Most common additional burdens

- The time and resource-consuming nature of the licensure requirements, processes, and paperwork.
- Age restriction for 55 or older, limits the ability to find clients.
- Elderly Waiver reimbursement for the clients who are 55+ is relatively low and elderly need more support sometimes, so it's challenging for small providers to manage with too many restrictions.
- Discontent with treating small facilities with the same guidelines as large facilities.
- Sensitization of surveyors/regulators so that they understand the burdens of the small providers.
- Financial burdens of licensure in terms of costs and fees involved with the process.

Human factors

In addition, human factors were also cited, including issues around surveys/site assessments, issues with landlords and issues with case workers.

- MDH seems to be much more interested in issuing deficiencies and collecting fines than in quality of resident care and staff working conditions. Most of the facilities can safely meet the needs of their residents without meeting all the regulation requirements.
- There should be more coordination between MDH and DHS, and they should communicate with each other. DHS should have provided a way to reimburse for the requirements made by the regulations, so providers have the financial capability to meet MDH requirements.
- The inability to transfer licenses give landlords the ability to raise rent.
- Case workers can be challenging to work and negotiate with.

Process factors

- Greater collaboration with MDH and DHS.
- Revisit the resident contract termination process, as the eviction process does not apply to dangerous residents.
- Current system/process is more geared towards physical limits and disabilities than mental health issues.
- Streamline the statutes and regulations to make it easy and comprehensible for everyone.
- Make first round of survey less harsh and more educational. As there are 14 possible citations, it can be overwhelming. Education is very helpful.
- Meetings held by DHS and MDH tend to address only larger facilities. It would be helpful if MDH and DHS work closely to empower small providers to better serve the communities in need.
- Frustration with the frequency of license renewals and reimbursement delays during the renewal period.
- Inspectors don't seem to be consistent about physical environment requirements.
- A call for a more uniform way of outlining state guidelines for providers, with current assistance appearing geared towards the client rather than providers.
- Criticism of annual license renewals as they are unnecessary and burdensome to time and resources.
- Complaints about reimbursement discontinuation during the license renewal period.