Overview and Objectives

- Outline fundamentals of Minnesota senior housing, assisted living, and memory care
- Outline implications for those who work with seniors

Minnesota Senior Housing, including Assisted Living and Memory Care Programs

- Structured as an apartment building with differing types of supportive services
- So, first think of it just like any other residential setting a tenant might live in
  - Just like any other apartment building
  - Just like any condominium building
  - Just like a town home complex
  - Just like individual houses on Main Street
- In each setting, must look carefully at the support system that may or may not be available
  - Don’t make assumptions of what is available – whether professional or family

All Senior Housing

- Minnesota Landlord Tenant Law applies to all rental housing settings
  - Tenants may not be kept out of their apartments, without proper advance notice and procedures
  - Landlord may have to get an eviction order from housing court to force tenant to leave
  - Landlord subject to “illegal lockout” order if keep tenant from unit without proper process
- Federal Fair Housing Law
  - Landlords aren’t able to decide for a disabled tenant where the tenant should live based on tenant’s disability

Minnesota Senior Housing, including Assisted Living and Memory Care Programs

- Landlord makes arrangements for some amount of supportive services to be available to tenants – so they can live successfully in the housing setting
- Amount and type of available supportive services vary widely
  - Home care services – vary widely
  - Meals – typically at least two meals per day
  - Other supportive services, like transportation, vary widely
**Minnesota Senior Housing Legal Structure**

- Landlord - Residential
  - Landlord tenant law
  - Housing with Services Act (only if applicable)
  - Assisted living law (only if applicable)
  - Memory Care requirements (only if applicable)
  - Fair Housing Law
  - Vulnerable Adult law (non-mandated reporter)
  - General liability concerns

- Home Care – Health Care
  - Nurse Practice Act
  - Home care rules
  - Assisted living law (only if applicable)
  - Vulnerable Adult law – mandated reporting and abuse prevention plans
  - Professional malpractice issues

**“Independent” Senior Housing**

- Rental, condominium, cooperative, townhome association
- Tenants/owners are essentially on their own to find necessary supportive services – landlords and housing managers do not make any arrangements for services
- Tenants are “independent” of any landlord/owner services

**Housing with Services**

- Rental apartment, with landlord offering or arranging for others to offer a set of supportive services
  - Meals
  - Housekeeping, laundry
  - Home Care, most often
- Tenants usually free to purchase services or not
  - However, tenants can be required to pay a base rate to cover the overhead costs of the service program even if they chose not to use those services, as condition of living in the housing setting
  - No minimum service set
    - Each site can decide what it wants to provide
    - Therefore, must always inquire fully into what is and isn’t available

**Housing with Services**

- HWS landlords must provide certain information to tenants to help them decide on where to live
  - Descriptions of services
  - Fee schedules
- Usually in residency agreement and tenant handbook
- Each site is very different
  - Make no assumptions about what is available
  - As long as don’t use word “assisted living”, can actually provide same or more services as a typical “assisted living”
- Long Term Care Options Counseling required prior to occupancy, unless tenant declines

**Uniform Consumer Guide**

- Required of all HWS sites
- Outlines the services made available at the site
- General Format of Guide

**Assisted Living**

- Term used to describe a supportive service program made available to tenants in HWS rental apartments – usually more extensive services than in HWS that doesn’t call itself “assisted living, but not always
  - Meals
  - Housekeeping, laundry
  - Home Care
  - Activities
  - Transportation
- Tenants usually free to purchase services or not
  - However, tenants can be required to pay a base rate to cover the overhead costs of an assisted living program even if they chose not to use those services, as condition of living in the housing setting
Assisted Living

- There is no “license” for assisted living
  - The home care service component of an assisted living program must be offered by a licensed home care agency
- If a housing site uses the term “assisted living”, must at least offer a minimum set of services defined in MN Stat Chapter 144G.
  - Each site can decide what it wants to provide
  - Some offer just the minimum, but most offer much more intense services than the minimum
  - Therefore, must always inquire fully into what is and isn’t available

Normal HWS disclosures required
Uniform Consumer Guide required
Long Term Care Options Counseling required, unless tenant declines

Memory Care Apartments

- Rental apartment, with landlord offering or arranging for others to offer a set of supportive services designed for persons with memory loss
  - Usually quite intense levels of supervision and activities
  - Meals
  - Housekeeping, laundry
  - Home Care
  - Secured building
  - Can be part of larger complex or a very small home
- May or may not call itself “assisted living”

Rental apartment, with landlord offering or arranging for others to offer a set of supportive services designed for persons with memory loss
- May or may not call itself “assisted living”

Minnesota Memory Care Apartments

- If calls itself “assisted living”, must meet at least the assisted living minimum requirements
- Must provide memory care program disclosures
- If doesn’t call itself “assisted living”, can design its own program and do memory care program disclosures

Normal HWS disclosures required
Uniform Consumer Guide required
Long Term Care Options Counseling required, unless tenant declines

Home Care Services in Minnesota Senior Housing

- Home care services
  - Home Care Agency license from State of Minnesota
  - Nursing services also regulated by Nurse Practice Act
  - Class A Agency, usually not Medicare certified
    - Delivers services in the community, where- ever tenant lives
    - Including single family homes, condos, coops, townhomes, apartment buildings, assisted living, memory care, etc.
  - Or Class F Home Care Agency – can’t be Medicare certified
    - May only deliver services to tenants of HWS, assisted living, or memory care
Home Care Services in Minnesota Senior Housing

- Amount and type of home care services vary greatly from place to place
  - Also from time to time
  - No defined staffing pattern
  - No RN, or even LPN, or even unlicensed personnel, on site 24/7 at all sites – not required – each site is different and nights and weekends are different, also

What Does this Mean for Those who Work with Seniors?

- Don’t plan for tenants living in senior housing of any type as if they were living in a health care facility with 24/7 nursing staff
- Treat planning much like planning for an individual living in a home on Main Street –
  - Or an “independent living” apartment building
  - Or a condominium, cooperative or townhome
- Ask specifically what type and intensity of services are available for the tenant

What Does this Mean for Those who Work with Seniors?

- Only difference between a house on Main Street and a tenant living in a housing setting offering assisted living services is that there will be some nursing staff and unlicensed personnel available to provide some of the support needed
  - But not necessary all – some have more than others
  - And certainly not on Friday afternoon or weekends, when it always seems last minute plans have to be made
- Family may or may not also be able to provide needed support, just like in a home on Main Street

Home Care and Nurse Practice Act Realities

- Class F and Class A non Medicare home care agencies can’t do any Medicare covered services
- Class F and Class A Non Medicare home care agencies may not be able to do even some non-Medicare covered services
  - May not be staffed –
    - Don’t have RNs and LPNs on duty at all times
    - May have limited staff in general, due to staffing patterns
  - May not even have any staff 24/7, except emergency response staff
  - May not have necessary nursing skills for all needs of the particular tenant in any case
- They must not provide services for which they aren’t qualified

Home Care and Nurse Practice Act Realities

- Even if have staff, home care agency can’t implement a revised home care plan of care after hospital discharge or a change in condition without an RN doing a face to face assessment
  - Assessment required under Nurse Practice Act
  - Assessment required under Home Care rules
  - LPNs can’t do assessments
  - Care will be delivered mostly by unlicensed personnel
- When RN isn’t on duty, or is otherwise scheduled, required assessment can’t be done
  - Real problem with Friday, evening and weekend hospital discharges

Home Care and Nurse Practice Act Realities

- Return from hospital or other change of condition may present a much changed service need level that home care may not be able to support
  - Even if can support needs, must still regroup before providing support – nursing assessment and assembling correct service team
- Client may have been receiving very limited home care services prior to hospitalization or change of condition
  - Could have been just bathing, emergency response
- Case managers and discharge planners must tell home care what services will be required and ask which services home care is equipped to provide
  - General staffing and particular tenant needs
- Another supplemental home care agency may be required, or family may be required to provide services on an interim basis
Home Care and Nurse Practice Act Realities

- Home care needs clear physician orders for services and medications
- RN must do an assessment
- RN must develop new service plan or service agreement
  - Specifies which staff will do what when
  - Costs included
  - Must be signed by tenant or responsible party
- Staff must be oriented to the new plan and, if necessary, trained to the new tasks
- Staff may not be able to meet all needs of patient
  - May need supplemental service providers

Home Care and Nurse Practice Act Realities

- Home care agencies prohibited by law, licensure requirements, and professional standards from serving tenants whose needs they cannot meet
  - Because of staffing patterns
  - Because of lack of training of staff for specific needs
  - Will decline to serve if necessary
- If tenant returns to tenant’s “home”, wherever it may be, in which there aren’t sufficient care givers
  - Case managers must arrange for supplemental services
  - Treat each discharge to senior housing, including assisted living and memory care, as individually as a discharge to a home on Main Street

Conclusion

- When planning, treat tenant living in senior housing of any type more like a tenant living in a single family dwelling
- The tenant may have some amount of support from family and home care – which needs to be determined on case by case basis
- And very likely tenant and other caregivers will need at least temporary support from other resources, like Medicare home care agency and/or hospice
- Each tenant needs to be approached with fresh eyes about support available on site by home care, other providers, family.

Questions?

Thank you!

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