

## Assisted Living License Policy and Procedure for Vista Prairie Management, LLC

<b>POLICY AREA</b>	General
<b>TITLE OF POLICY</b>	2.13 Electronic Monitoring
<b>STATUE/RULE REFERENCE (if any)</b>	MN 144.6502
<b>EFFECTIVE/REVISED DATE</b>	08/2021

**POLICY:** Vista Prairie Management, LLC will support the use of electronic monitoring by our residents and resident representatives (as defined in the law). Effective January 1, 2020, Vista Prairie Communities complies with the Minnesota Electronic Monitoring law pursuant to [Minn. Stat. § 144.6502](#). A residents or Resident Representative may conduct Electronic Monitoring in the resident's room or private living unit consistent with the consent, notification and other requirements set forth in that section of the law. It is the policy of Vista Prairie Communities not to prohibit or retaliate against a resident for conducting electronic monitoring pursuant to the law.

### **PROCEDURE:**

1. Signs are installed at each facility entrance accessible to visitors that state: "Electronic monitoring devices, including security cameras and audio devices, may be present to record persons or activities."
2. Staff will not knowingly hamper, obstruct, tamper with, or destroy a resident's electronic monitoring device installed as permitted under 144.6502.
3. Vista Prairie Management, LLC will not refuse to admit a resident based on the resident's desire to utilize electronic monitoring consistent with 144.6502.
4. Vista Prairie Management, LLC will not retaliate or discriminate against any resident for consenting or refusing to consent to electronic monitoring.
5. Vista Prairie Management, LLC will not prevent the placement of an electronic monitoring device installed consistent with 144.6502.
6. Vista Prairie Management, LLC requires resident (and when appropriate, roommate) consent as outlined in 144.6502 Subd. 3. The consent must be provided on the form provided by the Minnesota Department of Health.
7. If a resident's roommate refuses to consent to electronic monitoring, the device should not be installed. Reasonable efforts, repeated every two weeks, shall be made to find a private living space or roommate that is willing to consent to electronic monitoring. If a resident elects to move to a private unit to utilize electronic monitoring, the resident must pay for the private unit. The facility is not obligated to provide a private unit to a resident who is unable to pay.
8. If the resident provides the required consent form to the Office of Ombudsman for Long Term Care, the facility expects the resident to provide the consent form to the facility 14 days after the consent was given.
9. The resident is responsible for the cost of the electronic monitoring device and any installation and removal costs.
10. The resident is responsible for any monthly subscription associated with the electronic monitoring device.
11. If an electronic monitoring device is discovered, and consent has not been provided, the facility will verify with the Office of Ombudsman to determine if a consent form was provided to the OOLTC. If no consent was provided, the facility should contact the resident and/or resident's representative to remove the device until proper consent can be provided, consistent with 144.6502.
12. For fire safety reasons, all electronic monitoring devices installed must be UL approved.

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### PROCEDURE:

A resident, and in certain cases the Resident's Representative, may conduct electronic monitoring of the resident's room or private living unit through the use of electronic monitoring devices placed in the resident's room or private living unit. Throughout this Policy and Procedure, the following terms are defined below, and pursuant to the above-referenced statute:

"Electronic Monitoring" means the placement and use of an electronic monitoring device by a resident in the resident's room or private living unit.

"Electronic Monitoring Device" means a camera or other device that captures, records, or broadcasts audio, video, or both, that is placed in a resident's room or private living unit and is used to monitor the resident or activities in the room or private living unit.

"Resident Representative" means one of the following in the order of priority listed, to the extent the person may reasonably be identified and located:

1. A court-appointed guardian;
2. A health care agent as defined in Minn. Stat. [§ 145C.01](#), subdivision 2; or
3. A person who is not an agent of a facility or of a home care provider designated in writing by the resident and maintained in the resident's records on file with the facility.

### Consent and Notification

Consent: Prior to conducting Electronic Monitoring, a resident, or their Resident Representative must consent to Electronic Monitoring in writing on the notification and [consent form\(s\) developed by the Minnesota Department of Health](#). Vista Prairie Communities will make the notification and consent form available to residents and inform residents of their option to conduct Electronic Monitoring of their rooms or private living unit.

A Resident Representative may consent on behalf of the resident if the resident has not affirmatively objected to Electronic Monitoring and the resident's medical professional determines that the resident currently lacks the ability to understand and appreciate the nature and consequences of Electronic Monitoring. A resident "affirmatively objects" when the resident orally, visually, or through the use of auxiliary aids or services declines Electronic Monitoring. The resident's response must be documented on the notification and consent form. The Resident Representative must ask the resident if the resident wants Electronic Monitoring to be conducted and must explain to the resident:

1. The type of Electronic Monitoring Device to be used;
2. The standard conditions that may be placed on the Electronic Monitoring Device's use;
3. With whom the recording may be shared pursuant to law;

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4. The resident's ability to decline all recording.

Conditions on Consent: The resident or Resident Representative may consent to Electronic Monitoring with any conditions, including but not limited to, prohibiting audio or video recording, prohibiting the broadcasting of audio or video, turning off the Electronic Monitoring Device or blocking the visual recording of the Electronic Monitoring Device during an exam or procedure by a health care professional, while dressing or bathing, or during a visit with persons such as a spiritual advisor, ombudsman, attorney, financial planner, intimate partner, or any other visitor. A resident or Resident Representative may request that the Electronic Monitoring Device be turned off or the visual or audio recording be blocked at any time.

Roommate Consent: Prior to implementing Electronic Monitoring, the resident, or Resident Representative when acting on behalf of the resident, must obtain the written consent on the notification and consent form of any other resident residing in the shared room or shared private living unit. The resident must remove or disable an Electronic Monitoring Device prior to a new roommate moving into a shared room or shared private living unit, unless the resident obtains the roommate's or roommate's Resident Representative's written consent and follows the consent and notification requirements described herein.

If the resident's roommate refuses to consent to Electronic Monitoring, Vista Prairie Communities shall make a reasonable attempt to accommodate the resident who wants to conduct Electronic Monitoring, including offering to move the resident to another shared room or shared living unit that is available at the time of the request. The resident may also choose to reside in a private room or private living unit, but the resident must pay any difference in cost for that private room or private living unit. If Vista Prairie Communities is unable to accommodate a resident due to lack of space, the request will be reevaluated every two (2) weeks until the request is fulfilled.

Notification: Prior to conducting Electronic Monitoring, the resident or the Resident Representative acting on behalf of the resident, and the roommate or roommate's Resident Representative must complete the notification and consent form and submit the form to Vista Prairie Communities. The original form will be placed in the resident's file or resident's housing with services contract. Vista Prairie Communities will provide a copy to the resident and the resident's roommate, if applicable.

The resident or Resident Representative may submit the notification and consent form to the Office of Ombudsman for Long-Term Care (Ombudsman) for up to 14 days prior to providing the form to Vista Prairie Communities and prior to conducting Electronic Monitoring if any of the following exceptions apply:

1. The resident or Resident Representative reasonably fears retaliation against the resident by the facility, and timely submits a [Minnesota Adult Abuse Reporting Center \(MAARC\)](#) report or police report, or both, upon evidence from the Electronic Monitoring Device that suspected maltreatment has occurred;

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2. There has not been a timely written response from the facility to a written communication from the resident or Resident Representative expressing a concern prompting the desire for placement of an Electronic Monitoring Device;
3. The resident or Resident Representative has already submitted a MAARC report or police report regarding the resident's concerns prompting the desire for placement.

The resident or Resident Representative must provide the notification and consent form to Vista Prairie Communities no later than the 15<sup>th</sup> calendar day after providing such notice to the Ombudsman and conducting Electronic Monitoring pursuant to any of the three (3) exceptions listed above.

Withdrawal of or Alteration of Consent: The resident, roommate, or the Resident Representative acting on behalf of the resident or roommate, may withdraw consent, or alter the conditions under which consent is given, at any time. If the resident, roommate, or the Resident Representative acting on behalf of the resident or roommate, chooses to withdraw consent to Electronic Monitoring, or to alter the conditions under which consent is given, the facility shall make available the original notification and consent form so that it may be updated. Upon receipt of the updated form, the facility shall place the updated form in the resident's file or file the original form with the resident's signed housing with services contract. A copy of the updated form shall be provided to the resident, the Resident Representative, or roommate as applicable.

Facility-Authorized Removal of Electronic Monitoring Device: Vista Prairie Communities shall remove the Electronic Monitoring Device in the following circumstances:

1. If a new roommate, or the new roommate's Resident Representative when consenting on behalf of the roommate, does not submit to the facility a completed notification and consent form and the resident conducting the Electronic Monitoring does not remove or disable the Electronic Monitoring Device;
2. If a roommate, or the roommate's Resident Representative when withdrawing consent on behalf of the roommate, submits an updated notification and consent form withdrawing consent and the resident conducting Electronic Monitoring does not remove or disable the Electronic Monitoring Device;
3. If Vista Prairie Communities determines that a consent and notification form has not been provided to the facility or the Ombudsman as outlined above, or notification to the facility has not occurred on the 15<sup>th</sup> calendar day after providing it to the Ombudsman. Vista Prairie Communities must provide the Ombudsman with the type, make, and model number of the Electronic Monitoring Device discovered. Vista Prairie Communities shall then also contact the resident or Resident Representative to communicate the requirements of this policy and the Minnesota statute.
4. If the resident withdraws consent or affirmatively objects to Electronic Monitoring after it is in place. Vista Prairie Communities shall then communicate with

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resident or the Resident Representative the requirements of updating the notification and consent form.

### Restrictions and Conditions Regarding Use of Electronic Monitoring

1. Vista Prairie Communities will review a consent and notification form provided to it to confirm that the resident (and roommate, if applicable) or Resident Representative acting on behalf of the resident (or roommate, if applicable) has signed the form and otherwise fully completed it.
2. If a consent and notification form specifies one or more conditions that must be met for Electronic Monitoring to occur, Vista Prairie Communities shall discuss with resident or the Resident Representative acting on behalf of resident to determine whose responsibility it is to comply with any conditions required, for example, but not limited to, turning on or off the device at certain times. No person may access any video or audio recording without the written consent of the resident or Resident Representative.
3. Except as required by law, a recording or copy of a recording through an Electronic Monitoring Device may only be disseminated for the purpose of addressing health, safety, or welfare concerns of one or more residents.
4. The resident or Resident Representative choosing to conduct Electronic Monitoring must do so at the resident's own expense, including paying for purchase, installation, maintenance and removal costs. This also may include costs for contracting with an internet service provider.
  - a. Vista Prairie Communities shall make a reasonable attempt to accommodate the resident's installation needs, including allowing access to the facility's public-use internet or Wi-Fi, if available for other public uses.
5. All Electronic Monitoring Device installations and supporting services must be UL-listed.
6. Resident must comply with any facility safety requirements with respect to use of cords, and electrical outlets.

### Notice to Residents and Visitors

1. Vista Prairie Communities shall inform residents of their option to conduct Electronic Monitoring of their rooms or private living unit by the Tenant Handbook upon entering the Housing with Services Agreement Facility shall make the consent and notification form developed by the Minnesota Department of Health available to residents.
2. Vista Prairie Communities shall post a sign at each facility entrance accessible to visitors that states, **“Electronic monitoring devices, including security cameras and audio devices, may be present to record persons and activities.”**

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### Obstruction and Resident Protections

1. A person must not knowingly hamper, obstruct, tamper with, or destroy an Electronic Monitoring Device without the permission of the resident or Resident Representative.
  - a. Checking the Electronic Monitoring Device for the type, make and model number does not constitute tampering.
  - b. It is not a violation to turn off the Electronic Monitoring Device or block the visual recording component at the direction of the resident or Resident Representative, or if consent has been withdrawn.
  
2. Vista Prairie Communities will not:
  - a. Refuse to admit a potential resident or remove a resident because the facility disagrees with the decision of the potential resident, the resident, or a Resident Representative regarding Electronic Monitoring;
  - b. Retaliate or discriminate against any resident for consenting or refusing to consent to Electronic Monitoring;
  - c. Prevent the placement or use of an Electronic Monitoring Device by a resident who has complied with the consent and notification requirements above.

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### Employee Discipline

An employee of the facility or an employee of a contractor providing services at the facility, who is the subject of proposed disciplinary action based upon evidence obtained by Electronic Monitoring must be given access to that evidence for purposes of defending against a proposed action.

Any employee who obtains a recording or copy of the recording must treat the recording or copy confidentially and must not further disseminate it to any other person except as required by law. The recording, or copy of the recording, must be returned to the facility or resident who provided it when it is no longer needed for purposes of defending against a proposed action.

### **Resident Notification of Electronic Monitoring**

Vista Prairie Communities complies with the Electronic Monitoring law pursuant to Minn. Stat. § 144.6502. Residents, or their Resident Representative pursuant to the statute and Vista Prairie Communities' s Electronic Monitoring Policy and Procedure, have the right to place an electronic monitoring device in the resident's room or private living unit after appropriate consent and notification requirements are met by the resident and any roommate. It is the policy of Vista Prairie Communities not to prohibit or retaliate against a resident for conducting electronic monitoring pursuant to the law.

- Please contact the Executive at Vista Prairie Communities for a full copy of the Electronic Monitoring Policy and Procedure (Policy), or for any additional questions.

### **What is Electronic Monitoring?**

"Electronic Monitoring" means the placement and use of an electronic monitoring device by a resident in the resident's room or private living unit.

"Electronic Monitoring Device" means a camera or other device that captures, records, or broadcasts audio, video, or both, that is placed in a resident's room or private living unit and is used to monitor the resident or activities in the room or private living unit.

### **Resident Obligations:**

**Prior to conducting electronic monitoring**, a Resident or in some cases the Resident Representative, must provide written notification and consent to Vista Prairie Communities, or in certain circumstances outlined in the law and Policy to the Office of Ombudsman for Long-Term Care (Ombudsman), on the form developed by the Minnesota Department of Health (MDH). This form is available at Vista Prairie Communities or through MDH.

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The resident must also obtain written notification and consent on the MDH form by any roommate of the resident wishing to conduct electronic monitoring and provide it to Vista Prairie Communities, or the Ombudsman per statute and the Policy.

The resident and resident's roommate have the right to place conditions on the electronic monitoring and have the right to withdraw consent at any time. Any conditions or withdrawal of consent must be stated on the notification and consent form.

The resident must bear the cost of any electronic monitoring device, installation, maintenance and removal. This may also include cost of internet service. Please contact Vista Prairie Communities for information about access to any public-use internet or Wi-Fi that may be available.

### **Employee Notification of Electronic Monitoring**

Vista Prairie Communities complies with the Electronic Monitoring law pursuant to Minn. Stat. § 144.6502. Residents, or their Resident Representative pursuant to the statute and Vista Prairie Communities' Electronic Monitoring Policy and Procedure, have the right to place an electronic monitoring device in the resident's room or private living unit after appropriate consent and notification requirements are met by the resident and any roommate. It is the policy of Vista Prairie Communities not to prohibit or retaliate against a resident for conducting electronic monitoring pursuant to the law.

Vista Prairie Communities has implemented an Electronic Monitoring Policy and Procedure (Policy) which will be reviewed with all employees. If you have any questions, please contact the communities Executive Director.

Residents have the right to conduct electronic monitoring after a completed notification and consent form has been provided to the facility, or in some circumstances, temporarily to the Office of Ombudsman for Long-Term Care (Ombudsman).

**If a resident asks about electronic monitoring**, please direct them to the Executive Director so Vista Prairie Communities can make sure the resident completes the notification and consent form.

**If you find an electronic monitoring device in a resident's room or private living space**, please contact the Executive Director who will review whether proper consent has been given through the notification and consent form. If the facility does not have a notification and consent form on file, Vista Prairie Communities must contact the Ombudsman with the type, make, and model number of the electronic monitoring device.

If neither Vista Prairie Communities nor the Ombudsman's office has a completed notification and consent form, Vista Prairie Communities may remove the electronic monitoring device and should re-educate resident of the Electronic Monitoring law and our Policy. Upon compliance with the law, the resident may begin electronic monitoring.