

INTERNAL MEMO

DATE: 03/19/2024

TO: Leah Solo, Executive Director, Nursing Home Workforce Standards Board

FROM: Paul Enger, Associate General Counsel

PHONE: 651-284-5016

SUBJECT: NHWSB Rulemaking Deadlines

At the March 18, 2024, NHWSB meeting, the Board asked about rulemaking timelines and the necessity of voting on standards within the next few weeks. This memo provides an estimated calculation of the deadlines that will need to be met in order to fulfill the statutory charge of Minn. Stat. § 181.213, subd. 1(b), which requires the Board adopt rules establishing initial standards for wages for nursing home workers by August 1, 2024. These estimates are operating under a presumption that no revisions will be required at any stage in the proceedings, staff will be able to complete any work given to them by the Board within a day of receiving instructions, and any interaction with an external party (like the Revisor's Office or the Governor's Office) will be completed within the estimated or average timeframes that have been provided.

- **By April 8** – The Board approves drafts of the rules setting initial standards and the rules setting notice posting requirements. The Board has already approved a draft of the rules setting certification criteria for worker organizations. Ideally, all rulesets are approved before April 8.
- **By April 8** – The Revisor's Office currently estimates that at least two full weeks will be required for the Revisor's Office to review Draft rules and approve them as to form. Once rules have been approved, staff finalizes Notice of Proposed Expedited Rules.
- **April 23** – Submit Notice of proposed Expedited rules to the State Register. The State Register publishes on Mondays, and all items to be published in the State Register must be submitted by noon the preceding Tuesday.
- **April 26** – Mail Notice of Proposed Expedited Rules to those required by statute and to those we are providing advance notice. Minn. R. 1400.2080, subp. 6.
- **April 29** – Notice of Proposed Expedited Rules is published in State Register, which begins the 30-day comment period. Minn. Stat. § 14.389, subd. 2.
- **May 30** – At the conclusion of the comment period, any final modifications to the rule are made, the Order Adopting Rules is prepared, and the Final Rule Form is prepared and

submitted to the Governor's Office. The usual practice of the Governor's Office is to respond to the submission of the Final Rule Form within 7 days.

- **June 7** – Submit Proposed Order Adopting Rules to the Office of Administrative Hearings for review and approval. An Administrative Law Judge has 14 days to review and either approve or disapprove of the Rules as Adopted. Minn. R. 1400.2410 subp. 3. Simultaneously, the Office of Administrative Hearings will request the Revisor to approve the rules as to form. The Revisor has 5 days, excluding weekends and holidays, to approve or disapprove a rule. Minn. Stat. § 14.08(a).
- **June 24** – The Board approves and signs Order Adopting Rules. The signed Order Adopting Rules is filed with the Office of Administrative Hearings.
- **June 25** – The Office of Administrative Hearings will file the signed Order Adopting Rules with the Secretary of State. Once the Revisor is notified by the Secretary of State that the adopted rules have been filed, the Revisor will prepare a Notice of Adoption. There is no statutory time limit for the Revisor to complete the Notice of Adoption, but turnaround is an average of two days. Simultaneously, the Notice of Filing with the Secretary of State is mailed to all who have requested such notice, and the governor's 14-day veto period begins. Minn Stat. § 14.05, subd. 6.
- **July 16** – Submit notice of adoption of rule to State Register, for publication on July 22.
- **July 22** – Notice of Adoption is published in State Register. The rule can take effect five days following the publishing of the Notice of Adoption.
- **August 1** – Rule becomes effective.