



Minnesota Nursing Home Workforce Standards Board annual report

Report to the Minnesota Legislature

Dec. 1, 2024

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Background

Governing statute

The Minnesota Nursing Home Workforce Standards Board Act was passed as part of the Omnibus Jobs, Economic Development, Labor and Industry appropriations bill, SF 3035, 2023 Session Law Chapter 53 and codified at Minnesota Statutes, sections 181.211 to 181.217. The statute provides building blocks for a board to set compensation standards for nursing home workers that are reasonably necessary and appropriate to protect the health and welfare of nursing home workers, to ensure nursing home workers are trained on these standards, and to enact other rules the Nursing Home Workforce Standards Board (NHWSB) determines are necessary and appropriate to protect the health and welfare of nursing home workers. Further, the statute was amended in 2024 as part of SF3852, 2024 Session Law Chapter 110, to indicate initial standards for wages must be completed by Nov. 1, 2024, a delay of three months from the initial timeline prescribed by law. Per Minnesota Statutes, section 181.212, subdivision 11, the executive director must submit an annual report by Dec. 1 each year “to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over labor and human services on any actions taken and any standards adopted by the board.”

The statute provides guidance about NHWSB should conduct its work, including gathering data, reviewing collective bargaining agreements and hearing testimony from workers and employers. It also directs NHWSB to create a certification process for worker organizations to train nursing home workers about the standards developed by the board and draft a curriculum to guide the worker organizations’ training.

Board composition

NHWSB includes the commissioners or commissioner designees from the Minnesota departments of Labor and Industry, Human Services and Health, plus three members who represent nursing home employers or employer organizations, and three members who represent nursing home workers or worker organizations. The latter six are appointed by the governor in accordance with Minnesota Statutes, section 15.066. Additionally, the statute directs the governor to consider geographic distribution of nursing homes when appointing the employer representatives.

Commissioner or commissioner designee members	
Nicole Blissenbach Commissioner Department of Labor and Industry	Kim Brenne Director of Nursing Facility Rates and Audits Department of Human Services
Maria King Director of Health Regulation Division Department of Health	

Members representing nursing home employers or employer organizations	
<p>Paula Rocheleau President/CEO, Partners Senior Living Options, LLC. Royalton, Minnesota Term: Aug. 2, 2023, through Jan. 1, 2027</p>	<p>Mary Swanson Administrator, Good Samaritan-Westbrook Westbrook, Minnesota Term: Aug. 2, 2023, through Jan. 6, 2025</p>
<p>Katie Lundmark Vice President of Operations, Senior Living Division, Lifespark St. Louis Park, Minnesota Term: Aug. 16, 2023, through Jan. 5, 2026</p>	

Members representing nursing home workers or worker organizations	
<p>Jamie Gulley – chair President, SEIU Healthcare Minnesota and Iowa, St. Paul, Minnesota. Term: Aug. 2, 2023, through Jan. 5, 2026</p>	<p>Michele Fredrickson Licensed Practical Nurse and Staff Representative, United Steelworkers, Eveleth, Minnesota Term: Aug. 2, 2023, through Jan. 6, 2025</p>
<p>Michelle Armstrong Licensed Practical Nurse, United Food and Commercial Workers 1189, St. Paul, Minnesota Term: Aug. 16, 2023, through Jan. 4, 2027</p>	

Board support

NHWSB is supported by Department of Labor and Industry (DLI) staff members, including an executive director. Leah Solo was hired as the executive director and began her work Aug. 21, 2023. Additionally, DLI staff members provide administrative, technical, communications and legal support to NHWSB.

Board meetings

NHWSB has been meeting at least monthly since its initial meeting Sept. 14, 2023. Agendas, meeting minutes and meeting dates are online at dli.mn.gov/about-department/boards-and-councils/nursing-home-workforce-standards-board.

Workgroups

Much of NHWSB’s initial activity was centered around the three workgroups established at the first meeting: the Data Workgroup; the Public Hearing and Engagement Workgroup; and the Certification/Training Workgroup. An additional two workgroups were created in 2024: the Principles Workgroup; and the Waivers and Variances Workgroup. Each workgroup includes at least a commissioner or commissioner’s designee, a member from the employer representatives and a member from the worker representatives. The meetings have also included guests from employer and worker organizations and other state agencies. The NHWSB executive director, along with DLI administrative and Office of General Counsel staff members, have supported each workgroup and

meeting. The workgroups were established to allow the board to focus on specific facets of developing employment standards for nursing home workers pursuant to statute.

Data Workgroup

The Nursing Home Workforce Standards Board Act lays out several types of data that must be researched before setting standards, including wage rate and benefit data, collective bargaining agreements and local minimum standards. The Data Workgroup has set out to understand what the best existing sources of data are and how best to analyze data it collects. Data work also included researching the average hourly wage for a given occupation in a nursing home.

Data sources include multiple data sets from the Minnesota Department of Human Services (DHS), wage and hour data from the Minnesota Department of Employment and Economic Development (DEED) and DLI. The board concluded the data DHS collects and maintains provides the most comprehensive wage and benefit data. The workgroup will continue to explore other available data.

To inform the proposed minimum wage standards, the Data Workgroup relied on DHS wage and benefit data derived from the workforce incentive grant program that compiled actual per-hour wage data on nursing home workers who make less than \$30 an hour.¹ Based on a sample of that data, from 132 facilities out of approximately 322 possible facilities, staff members created a tool that allows one to input a hypothetical minimum wage per hour for one of five occupations (certified nursing assistant (CNA), dietary aide, cook, housekeeping or activities aide) and determine the percentage of people working in that profession whose wages currently fall below the proposed minimum standard. This tool was critical to the board’s work to develop appropriate minimum-wage standards for nursing home workers because it illustrated to the board what the compensation conditions are for a representative sample of nursing home workers across the state and how many nursing home workers would be directly impacted by a proposed minimum-wage standard.

Agendas, minutes and information about meetings of the Data Workgroup are available online at dli.mn.gov/about-department/boards-and-councils/nhwsb-data-workgroup.

Certification/Training Workgroup

In addition to setting standards for nursing home workers, the Nursing Home Workforce Standards Board Act requires the board to certify worker organizations to train nursing home workers about the standards and other rights and obligations under the act.

To determine the rules about certification of worker organizations, the workgroup discussed the relevant statutory provisions to create policies and procedures for applying to be a certified worker organization, obligations for dealing with data and a draft application. These then were translated into the draft rules.

Additionally, the workgroup developed a plan for how nursing homes could document their workers had been trained. This plan was shared with the full board and unanimously adopted at its July 18 meeting.

¹“5b Analysis of Data for WFSB 20240130 11452” from the Feb. 8, 2024, board packet – [nhwsb_5b_analysis_of_data_020824.xlsx \(live.com\)](#).

The workgroup then developed the draft curriculum for certified worker organizations that includes timing and content, along with a presentation template. This was presented at the public hearing about curriculum Sept. 19, 2024, and will be revised and finalized as the rules are adopted and implemented.

Agendas, minutes and information about meeting dates for the Certification/Training Workgroup are available online at dli.mn.gov/about-department/boards-and-councils/nhwsb-certificationtraining-workgroup.

Public Hearing and Engagement Workgroup

The Nursing Home Workforce Standards Board Act requires the board to gather testimony from workers and employers, as well as conduct a public hearing about the curriculum that will be used to train workers about the standards set by the board. Knowing nursing home workers and employers are located throughout the state, the workgroup engaged stakeholders using virtual and in-person forums, targeted surveys and in-person visits to nursing facilities.

The board had five public forums that solicited input about employment in the nursing home industry. All board members attended each forum, either online or in person.

- The first forum was virtual Feb. 15, 2024, and 46 people participated from across the state. Eight people spoke at this forum — three nursing home workers, two nursing home employers and three members of the public.
- The second forum was in person in Brooklyn Park, Minnesota, at North Hennepin Community college Feb. 21, 2024. There were 106 people in attendance at this public forum and 30 people spoke. Of the 30 speakers, 17 were nursing home workers, six were nursing home employers and seven were members of the public.
- The third public forum was in person in Duluth, Minnesota, at the main Duluth Public Library Feb. 29, 2024. There were 39 people in attendance and 19 people spoke, including one nursing home worker, five nursing home employers and 10 members of the public.
- The final in-person forum was in Redwood Falls, Minnesota, at the Redwood Area Community Center March 6, 2024. There were 19 attendees and six people spoke, ; all six speakers were nursing home employers.
- The final public forum, March 7, 2024, was virtual. Fourteen people attended this forum and five people spoke. One speaker read testimony from five of her nursing home worker colleagues. Additionally, three nursing home employers and one member of the public spoke.

The board solicited feedback from the public using an online form as well. The board created three different surveys to gain perspective and information from employers, employees and members of the public. Each survey contained about 20 questions. The employee survey was available in English and Spanish. In total, there were 205 responses to the three surveys, 69 from the employer survey, 101 from the employee survey and 35 responses from the general public survey. Summaries of this data can be found in the Data Workgroup meeting materials for March 14, 2024, at dli.mn.gov/about-department/boards-and-councils/nhwsb-data-workgroup-meeting-materials.

The board also reached out to various skilled nursing facilities to schedule tours and engage in face-to-face conversations. A registered nurse from Shalom Home in St. Louis Park, Minnesota, met with Executive Director

Solo individually. Sunrise Manor Nursing Home in Tyler, Minnesota, welcomed one member of the board, one advocate and Executive Director Solo for a tour and meeting with the director of nursing. Lastly, the board was invited to Oak Hills Living Center in New Ulm, Minnesota, where two members of the board, Executive Director Solo and a board staff member briefly toured the facility and spent time hearing feedback from staff members.

In addition to public forums soliciting input generally, on Sept. 19, 2024, the board conducted a public hearing about its draft curriculum as required by statute. The board heard from three members of the public in a hybrid setting. Based on this information, the board is updating the curriculum and preparing to have it available for worker organizations as the certification process begins in 2025.

Finally, as the board begins providing general support for implementation of new standards in 2025, it is considering materials that might assist employers, workers and worker organizations, such as “how-to” and FAQs documents, webinars and other media.

More information about the Public Hearing and Engagement Workgroup, including agendas, minutes and meeting dates, is available online at dli.mn.gov/about-department/boards-and-councils/nhwsb-public-hearing-workgroup.

Principles Workgroup

As the board proceeded through drafting rules, several members asked that attention be paid to the overall principles the board was using to carry out its work. The board delegated this work to a Principles Workgroup, which met twice and then brought a set of principles back to the board. The board discussed the principles and determined they were not in conflict with statute but, rather, helped guide the board. Those principles were adopted with an affirmative vote by the board at its June 13, 2024 meeting.

The Principles Workgroup is not planning to meet in the near future but is still open if there is a need for more conversation about the principles.

Agendas, minutes and information about meeting dates for the Principles Workgroup are available online at dli.mn.gov/about-department/boards-and-councils/nhwsb-principles-workgroup.

Waivers and Variances Workgroup

Under the Nursing Home Workforce Standards Board Act, the board is obligated to “adopt procedures for considering temporary variances and waivers of the established standards for individual nursing homes based on the board’s evaluation of the risk of closure or receivership under section 144A.15, due to compliance with all or part of an applicable standard.” (See Minn. Stat. 181.213, subd. 4.) As such, the Waivers and Variances Workgroup was established to focus on creating the mechanisms by which nursing homes can apply for a waiver or variance, and for the board to evaluate applications for a waiver or variance.

The workgroup has met five times to discuss waivers and variances. The board has examined other agencies’ processes and documentation needs for waivers and variances, as well as the application for the Minnesota Financially Distressed Nursing Facility Loan program, which requires information that demonstrates financial distress for nursing homes. The workgroup used this information to compile a list of possible categories of information the board could request in an application for a waiver or variance and compiled it into a memo shared initially at the workgroup’s Aug. 8, 2024, meeting; the memo is now available online at

dli.mn.gov/sites/default/files/pdf/nhwsb_waiver_variances_criteria_and_process_possibilities_memo_aug24_080524.pdf.

Additionally, the workgroup has discussed the shift in the way the federal government decides the case-mix for nursing homes, which will happen in Minnesota in early 2026. Because this shift will coincide with what the board anticipates as the implementation date of the minimum-wage standards, the board is working to develop a provisional waiver that could allow nursing homes to adapt to the new federal system if their financial situation is uncertain in late 2025 and early 2026. To help nursing homes that may be at risk of closure or receivership as a result of these federal changes coinciding with the implementation of the minimum-wage standards, the workgroup proposed a simplified and streamlined option for nursing homes to apply for a short-term waiver from the minimum-wage standards as they determine their finances under the new case-mix classification system that could be used in late 2025 and early 2026. Nursing homes would still need to demonstrate, through the application process, they are at risk of closure or receivership without a waiver.

During the next weeks, the workgroup will finalize its initial process for waivers and variances as the board prepares for the first sets of rules to be finalized and implemented, including holiday pay.

Agendas, minutes and information about meeting dates for the Principles Workgroup are available online at dli.mn.gov/about-department/boards-and-councils/nhwsb-waivers-and-variances-workgroup.

Current status update: Adopting rules in 2024

When the Legislature created NHWSB in 2023, it created several obligations for the board. Those obligations include creating rules to protect the health and welfare of nursing home workers and ensuring nursing home workers are trained about these rules and otherwise informed of their rights.²

In the Nursing Home Workforce Standards Board Act, the legislation gave the board direction to “adopt rules establishing initial standards for wages for nursing home workers no later than Nov. 1, 2024.”³ Additionally, unless the initial wage standards required appropriation from the Legislature, the initial standards are to take effect by Jan. 1, 2025.⁴ These two dates gave the board significant direction when researching market conditions and determining how to best implement rules.

This work has resulted in two sets of standards that are proceeding through rulemaking. One set of rules will require appropriation from the Legislature before it can become effective.⁵ Consequently, one set of rules has an implementation date of Jan. 1, 2025, and the other has a tentative implementation date of Jan. 1, 2026.

²Minn. Stat. § 181.213, subd. 1(a).

³Minn. Stat. § 181.213, subd. 2(b).

⁴Minn. Stat. § 181.214, subd. 2(a).

⁵Minn. Stat. § 181.213, subd. 2(d)(3).

Rule set	Initial vote by board ⁶	Notice of intent to adopt published	Approved by Office of Administrative Hearings	Vote by board for final adoption
Initial minimum-wage standards; 5200.2060-5200.2090	June 13, 2024	June 24, 2024	Sept. 20, 2024	Oct. 2, 2024
Initial holiday pay standards, certification of worker organizations, posting requirements; 5200.2000-5200.2050	Aug. 8, 2024	Aug. 26, 2024	Oct. 31, 2024	Nov. 7, 2024

The public comment period for the initial wage standards was June 24 to July 24, 2024, and generated 262 comments. The public comment period for holiday pay standards, certification of worker organizations and posting requirements was Aug. 26 to Sept. 25, 2024, and generated 56 comments. Copies of these sets of comments are available online at dli.mn.gov/about-department/boards-and-councils/nhwsb-meeting-materials, listed as “All comments” under Aug. 8 and under “All comments – holiday pay” under the Oct. 2 special meeting.

Content of the rule sets

Wage standards

After the five public hearings, as well as a review of responses to the questionnaires, NHWSB met eight times to discuss proposals for initial wage standards. There was discussion about occupations and geography, as well as for funding and factors external to the board. A major point of discussion was meeting the majority benchmark as laid out in Minn. Stat. 181.213, subd 2(a).⁷

Ultimately, the board decided on the minimum wages below, with six board members voting in favor and three abstaining from the vote.

Occupation	Jan. 1, 2026, minimum hourly wage	Jan. 1, 2027, minimum hourly wage
General minimum wage	\$19.00	\$20.50
Certified nursing assistant wage	\$22.50	\$24.00
Trained medical assistant wage	\$23.50	\$25.00

⁶This is the initial vote as returned from the revisor’s office. There were several votes and instructions to staff members to prepare the draft rules prior to sending the rules to the revisor’s office.

⁷“Based on this information, the board must seek to adopt minimum nursing home employment standards that meet or exceed existing industry conditions for a majority of nursing home workers in the relevant geographic area and nursing home occupation.” (See Minn. Stat. § 181.213, subd. 2(a).)

Licensed practical nurse wage	\$27.00	\$28.50
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In considering costs, it was determined the minimum wages set by the board would require an appropriation from the state Legislature. Per statute, the board needed to analyze the fiscal impact of a proposed minimum-wage standard. (See Minn. Stat. 181.213, subd. 2(c).) As part of its market investigations, the board explored “the impact of [wage and benefit increases on] nursing home operating payment rates determined pursuant to section 256R.21, subd. 3, and the employee benefits portion of the external fixed costs payment rate determined pursuant to section 256R.25.”⁸ The board fulfilled this obligation by consulting with DHS to create a fiscal analysis, which determined the estimated fiscal impact on Medicaid payment rates for nursing home facilities. The cost to the state, as determined by DHS, is estimated to be approximately \$2.2 million in fiscal-year 2028 and \$6.8 million in fiscal-year 2029. These estimates may shift dependent on the state’s November and February budget forecasts. The initial set of minimum-wage standards have an implementation date of Jan. 1, 2026, to allow time for seeking an appropriation and obtaining federal approval. To see this fiscal analysis, visit dli.mn.gov/about-department/boards-and-councils/nhwsb-meeting-materials and examine meeting materials for May 9 and April 25.

Holiday pay, posting requirements and certifying worker organizations

A second set of rules addresses: holiday pay standards; the board’s obligation to certify worker organizations to provide training to nursing home workers about the standards set by the board as well as other rights and protections mentioned in the Nursing Home Workforce Standards Board Act⁹; and the requirements for employers to provide notice to nursing home workers about their rights and obligations under the act.¹⁰

In our survey of workers, paid holidays tied with health insurance as priorities for increasing the health and welfare of nursing home workers (38.6% workers named it as a priority) after a raise in pay (100%) and pensions or retirement plan (47.1%). The board responded to this by establishing holiday pay standards in Minnesota Rules 5200.2010, which sets a minimum-pay standard that nursing home workers are paid time-and-a-half their hourly wage if they work on the 11 state holidays observed in Minnesota, pursuant to Minn. Stat. 645.44, subd. 5(a). Those days are: New Years Day, Jan. 1; Martin Luther King’s Birthday, the third Monday in January; Washington’s and Lincoln’s Birthday, the third Monday in February; Memorial Day, the last Monday in May; Juneteenth, June 19; Independence Day, July 4; Labor Day, the first Monday in September; Indigenous Peoples Day, the second Monday in October; Veterans Day, Nov. 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, Dec. 25.

If employers come to an agreement with a majority of affected workers, they can exchange up to four state holidays for other days the employees and employer prefer.

⁸Minn. Stat. § 181.213, subd. 2(c).

⁹Minn. Stat. § 181.214, subd. 1.

¹⁰Minn. Stat. § 181.215, subd. 2.

The posting requirements in Minn. R. 5200.2020 fulfill the requirements in Minn. Stat. 181.215 and ensure nursing home employers inform their workers about the rights and obligations under the act.

The certification of worker organization rules, at Minn. R. 5200.2030-5200.2050, will help the board fulfill its obligation to certify worker organizations to train workers about their rights under the Nursing Home Workforce Standards Board Act. The rules lay out a procedure to accept and process applications from worker organizations and a procedure to renew and revoke the certification as necessary. It also includes requirements for the board to maintain a public list of certified worker organizations.

Curriculum and certification

The Nursing Home Workforce Standards Board Act also requires the board to set curriculum for the certified worker organizations to use when training workers. In this process, the board must conduct a public hearing about the curriculum.¹¹ This was done Sept. 19, 2024, in a hybrid setting. Three people testified about the draft curriculum. Copies of the materials provided for this public hearing are available online at dli.mn.gov/about-department/boards-and-councils/nhwsb-meeting-materials, under “Special meeting: Sept. 19.”

The curriculum will be finalized for the beginning of 2025, as the board anticipates opening applications for worker organizations to become certified. As directed by statute, the curriculum will be reviewed annually and updated as necessary.¹²

The board is preparing to accept certification applications beginning in 2025, as rules pertaining to certification are finalized. The board hopes to have organizations certified by mid-2025.

Conclusion

The Nursing Home Workforce Standards Board met its statutory obligation to adopt rules establishing initial standards for wages for nursing home workers no later than Nov. 1, 2024. Work ahead will include further discussion of the waivers and variances process, worker certification and training, and rule implementation.

¹¹Minn. Stat. § 181.214, subd. 2b.

¹²Minn. Stat. § 181.214, subd. 4.