

## Minutes: Nursing Home Workforce Standards Board

Date: Thursday, Oct. 10, 2024

Minutes prepared by: Linnea Becerra

Location: Hybrid – Washington Room at the Department of Labor and Industry and via Webex

### Attendance

#### Members present

Commissioner Nicole Blissenbach

Jamie Gulley

Michelle Armstrong

Kim Brenne (remotely)

Michele Fredrickson (remotely)

Maria King

Katie Lundmark

Paula Rocheleau

Mary Swanson (remotely)

#### Visitors present

Todd Bergstrom

Jeff Bostic

Brian Elliott

Rachel Estroff

Grant Collins Felhaber

Brooke Hein (remotely)

Bryce Hingst (remotely)

Casey Murphy (remotely)

Kayla Revier (remotely)

Call-in user (507233\*\*\*\*) (remotely)

#### DLI staff members present

Ali Afsharjavan

Linnea Becerra

Paul Enger

Leah Solo

### Agenda items

1. **Call to order** – the meeting was called to order by Jamie Gulley at 11:05 a.m. Roll call was taken. A quorum was declared.
2. **Approval of agenda** – a motion to approve the agenda as presented was made by Michelle Armstrong and seconded by Maria King. A roll call vote was taken and the motion passed unanimously.

- 3. Approval of drafted meeting minutes** – a motion to approve the Oct. 2, 2024, drafted meeting minutes as presented was made by Armstrong and seconded by King. A roll call vote was taken and the motion passed unanimously.
- 4. Board updates** –
- The Waivers and Variances Workgroup update included the group discussion about the potential timeline for provisional waivers and the content of what the waiver applications would look like. The group began to walk through a checklist of potential items for nursing homes to submit.
  - The Public Hearing Workgroup has a meeting coming up to debrief the Sept. 16, public hearing about the draft curriculum.
  - The Certification/Training Workgroup is meeting in the next week. The next steps on the curriculum are on hold until the rules are finalized.
  - The Data Workgroup has not met since the last full Nursing Home Workforce Standards Board (NHWSB) meeting but will be meeting in December and will look at the December forecast.
  - The board discussed common themes, as requested by board member Katie Lundmark, in the public comments submitted.
    - Gulley started by asserting roles within the industry seemed to dictate the submitted comments – employers do not approve of the holiday pay rule and worker organizations do.
    - There was discussion about the tight timeline of implementing the holiday pay rules and the concern of scheduling for the upcoming year’s holidays. After discussion, board members agreed that the compromise reached in the spring is still agreeable.
    - Lundmark brought up that the 11 state holidays do not represent the cultural practices of all communities. There was discussion about how the four flexible holidays accommodates for the different holidays each facility values.
    - Paula Rocheleau brought up the unfunded mandate comment made in many of the submitted comments. The board discussed whether the mandate is unfunded or the payment method is not preferred.
    - Armstrong spoke to the comments being mostly from the employers, speaking for the employees.
    - Michele Fredrickson brought up the vendor concern she noted in the comments. Commissioner Nicole Blissenbach clarified that vendors that are contracted and do work in the nursing home would be covered under the NHWSB statute.
    - Fredrickson also drew attention to the exempt versus non-exempt claim and the National Labor Relations Act (NLRA) as found in the letter submitted by Fox Rothschild on behalf of LeadingAge and Care Providers. Paul Enger, Office of General Counsel, cited Metropolitan Life Insurance company versus Massachusetts, which clearly indicates minimum labor laws are not pre-empted by NLRA.
    - Mary Swanson pointed out there were many more comments written by the employers and wondered why that was the case.
    - Kim Brenne said she did an informal check of one of the provider’s comments and noticed the reported cost to the provider was much higher than what the increase would be.
    - One comment, submitted by Care Providers, drew attention to the rulemaking process NHWSB is working under and questioned the validity of the process. Enger explained that under Minnesota Statutes section 14.389, Expedited rulemaking procedure, a statement of need and

reasonableness (SONAR) is not required. The Office of General Counsel feels confident NHWSB has followed the requirements needed pursuant to the statute.

- It was noted by Gulley there was only one comment submitted about certification of worker organizations or posting requirements. The comment referencing the certification of worker organizations noted a scenario in which an organization decides to discontinue providing training, not that they were denied a renewal or their certification was revoked. The board discussed nursing home workers who were trained would still receive their certification and when a worker organization decides to cease trainings, the board does not have authority over them.
  - Lundmark brought up the implementation of the holiday pay rules versus the effective date. The employers spoke to the quick turnaround and asked for an “on ramp” to the holiday pay standard. Commissioner Blissenbach explained how the effective date for minimum wage is similar to the proposed rules being discussed and said employers have had knowledge of the proposal since August.
  - Exhibit I was brought for discussion – there was no discussion.
  - Armstrong made a motion to adopt the rules as drafted and approve the staff to submit the necessary documents to the administrative law judge and Office of Administrative Hearings, as well as approve the staff to respond to additional inquiries that would be necessary to effectuate that process; the motion was seconded by Commissioner Blissenbach. A roll call vote was taken and the motion passed with six affirmative votes and three votes of abstention.
- 5. New business –**
- Executive Director Leah Solo reminded the board its annual report is due to the state Legislature by Dec. 1, 2024. Solo said she is working on a draft and will present it for the board’s approval at the meeting next month.
  - Executive Director Solo raised the scheduling of the regular meetings and asked for feedback. If no concerns are raised, the board will continue to meet on the second Thursday of the month.
- 6. Next meeting –** the next meeting is Thursday, Nov. 14, at 11 a.m., in the Minnesota Room.

## Adjournment

A motion was made by Blissenbach to adjourn the meeting at 12:38 p.m. and seconded by King. A roll call vote was taken and the motion passed unanimously.