

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 1621

(SENATE AUTHORS: PAPPAS, Hoffman, Murphy and Abeler)

| DATE | D-PG | OFFICIAL STATUS |
|------------|-------|---|
| 02/13/2023 | 806 | Introduction and first reading Referred to Labor |
| 03/02/2023 | 1224a | Comm report: To pass as amended and re-refer to Human Services |
| 03/08/2023 | 1408a | Comm report: Amended, No recommendation, re-referred to State and Local Government and Veterans |
| 03/20/2023 | | Comm report: To pass as amended and re-refer to Judiciary and Public Safety |

1.1 A bill for an act

1.2 relating to nursing homes; establishing the Nursing Home Workforce Standards

1.3 Board; establishing duties for the board; requiring training for nursing home

1.4 workers; prohibiting retaliation against nursing home workers; providing for

1.5 enforcement; authorizing rulemaking; authorizing civil actions by nursing home

1.6 workers; amending Minnesota Statutes 2022, section 177.27, subdivisions 4, 7;

1.7 proposing coding for new law in Minnesota Statutes, chapter 181.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. TITLE.

1.10 Sections 181.211 to 181.217 shall be known as the "Minnesota Nursing Home Workforce

1.11 Standards Board Act."

1.12 Sec. 2. Minnesota Statutes 2022, section 177.27, subdivision 4, is amended to read:

1.13 Subd. 4. **Compliance orders.** The commissioner may issue an order requiring an

1.14 employer to comply with sections 177.21 to 177.435, 181.02, 181.03, 181.031, 181.032,

1.15 181.101, 181.11, 181.13, 181.14, 181.145, 181.15, 181.172, paragraph (a) or (d), 181.214

1.16 to 181.217, 181.275, subdivision 2a, 181.722, 181.79, and 181.939 to 181.943, or with any

1.17 rule promulgated under section 177.28, 181.213, or 181.215. The commissioner shall issue

1.18 an order requiring an employer to comply with sections 177.41 to 177.435 if the violation

1.19 is repeated. For purposes of this subdivision only, a violation is repeated if at any time

1.20 during the two years that preceded the date of violation, the commissioner issued an order

1.21 to the employer for violation of sections 177.41 to 177.435 and the order is final or the

1.22 commissioner and the employer have entered into a settlement agreement that required the

1.23 employer to pay back wages that were required by sections 177.41 to 177.435. The

1.24 department shall serve the order upon the employer or the employer's authorized

2.1 representative in person or by certified mail at the employer's place of business. An employer
2.2 who wishes to contest the order must file written notice of objection to the order with the
2.3 commissioner within 15 calendar days after being served with the order. A contested case
2.4 proceeding must then be held in accordance with sections 14.57 to 14.69. If, within 15
2.5 calendar days after being served with the order, the employer fails to file a written notice
2.6 of objection with the commissioner, the order becomes a final order of the commissioner.

2.7 Sec. 3. Minnesota Statutes 2022, section 177.27, subdivision 7, is amended to read:

2.8 Subd. 7. **Employer liability.** If an employer is found by the commissioner to have
2.9 violated a section identified in subdivision 4, or any rule adopted under section 177.28,
2.10 181.213, or 181.215, and the commissioner issues an order to comply, the commissioner
2.11 shall order the employer to cease and desist from engaging in the violative practice and to
2.12 take such affirmative steps that in the judgment of the commissioner will effectuate the
2.13 purposes of the section or rule violated. The commissioner shall order the employer to pay
2.14 to the aggrieved parties back pay, gratuities, and compensatory damages, less any amount
2.15 actually paid to the employee by the employer, and for an additional equal amount as
2.16 liquidated damages. Any employer who is found by the commissioner to have repeatedly
2.17 or willfully violated a section or sections identified in subdivision 4 shall be subject to a
2.18 civil penalty of up to \$1,000 for each violation for each employee. In determining the amount
2.19 of a civil penalty under this subdivision, the appropriateness of such penalty to the size of
2.20 the employer's business and the gravity of the violation shall be considered. In addition, the
2.21 commissioner may order the employer to reimburse the department and the attorney general
2.22 for all appropriate litigation and hearing costs expended in preparation for and in conducting
2.23 the contested case proceeding, unless payment of costs would impose extreme financial
2.24 hardship on the employer. If the employer is able to establish extreme financial hardship,
2.25 then the commissioner may order the employer to pay a percentage of the total costs that
2.26 will not cause extreme financial hardship. Costs include but are not limited to the costs of
2.27 services rendered by the attorney general, private attorneys if engaged by the department,
2.28 administrative law judges, court reporters, and expert witnesses as well as the cost of
2.29 transcripts. Interest shall accrue on, and be added to, the unpaid balance of a commissioner's
2.30 order from the date the order is signed by the commissioner until it is paid, at an annual rate
2.31 provided in section 549.09, subdivision 1, paragraph (c). The commissioner may establish
2.32 escrow accounts for purposes of distributing damages.

3.1 Sec. 4. [181.211] DEFINITIONS.

3.2 Subdivision 1. **Application.** The terms defined in this section apply to sections 181.211
3.3 to 181.217.

3.4 Subd. 2. **Board.** "Board" means the Minnesota Nursing Home Workforce Standards
3.5 Board established under section 181.212.

3.6 Subd. 3. **Certified worker organization.** "Certified worker organization" means a
3.7 worker organization that is certified by the board to conduct nursing home worker trainings
3.8 under section 181.214.

3.9 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of labor and industry.

3.10 Subd. 5. **Employer organization.** "Employer organization" means:

3.11 (1) an organization that is exempt from federal income taxation under section 501(c)(6)
3.12 of the Internal Revenue Code and that represents nursing home employers; or

3.13 (2) an entity that employers, who together employ a majority of nursing home workers
3.14 in Minnesota, have selected as a representative.

3.15 Subd. 6. **Nursing home.** "Nursing home" means a nursing home licensed under chapter
3.16 144A, or a boarding care home licensed under sections 144.50 to 144.56.

3.17 Subd. 7. **Nursing home employer.** "Nursing home employer" means an employer of
3.18 nursing home workers in a licensed, Medicaid-certified facility that is reimbursed under
3.19 chapter 256R.

3.20 Subd. 8. **Nursing home worker.** "Nursing home worker" means any worker who provides
3.21 services in a nursing home in Minnesota, including direct care staff, non-direct care staff,
3.22 and contractors, but excluding administrative staff, medical directors, nursing directors,
3.23 physicians, and individuals employed by a supplemental nursing services agency.

3.24 Subd. 9. **Worker organization.** "Worker organization" means an organization that is
3.25 exempt from federal income taxation under section 501(c)(3), 501(c)(4), or 501(c)(5) of
3.26 the Internal Revenue Code, that is not dominated or interfered with by any nursing home
3.27 employer within the meaning of United States Code, title 29, section 158a(2), and that has
3.28 at least five years of demonstrated experience engaging with and advocating for nursing
3.29 home workers.

4.1 Sec. 5. [181.212] MINNESOTA NURSING HOME WORKFORCE STANDARDS
4.2 BOARD; ESTABLISHMENT.

4.3 Subdivision 1. Board established; membership. The Minnesota Nursing Home
4.4 Workforce Standards Board is created with the powers and duties established by law. The
4.5 board is composed of the following voting members:

4.6 (1) the commissioner of human services or a designee;

4.7 (2) the commissioner of health or a designee;

4.8 (3) the commissioner of labor and industry or a designee;

4.9 (4) three members who represent nursing home employers or employer organizations,
4.10 appointed by the governor in accordance with section 15.066; and

4.11 (5) three members who represent nursing home workers or worker organizations,
4.12 appointed by the governor in accordance with section 15.066.

4.13 Subd. 2. Terms; vacancies. (a) Board members appointed under subdivision 1, clause
4.14 (4) or (5), shall serve four-year terms following the initial staggered-lot determination. The
4.15 initial terms of members appointed under subdivision 1, clauses (4) and (5), shall be
4.16 determined by lot by the secretary of state and shall be as follows:

4.17 (1) one member appointed under each of subdivision 1, clauses (4) and (5), shall serve
4.18 a two-year term;

4.19 (2) one member appointed under each of subdivision 1, clauses (4) and (5), shall serve
4.20 a three-year term; and

4.21 (3) one member appointed under each of subdivision 1, clauses (4) and (5), shall serve
4.22 a four-year term.

4.23 (b) For members appointed under subdivision 1, clause (4) or (5), the governor shall fill
4.24 vacancies occurring prior to the expiration of a member's term by appointment for the
4.25 unexpired term. A member appointed under subdivision 1, clause (4) or (5), must not be
4.26 appointed to more than two consecutive terms.

4.27 Subd. 3. Chairperson. The board shall elect a member by majority vote to serve as its
4.28 chairperson and shall determine the term to be served by the chairperson.

4.29 Subd. 4. Staffing. The commissioner may employ an executive director for the board
4.30 and other personnel to carry out duties of the board under sections 181.211 to 181.217.

5.1 Subd. 5. **Compensation.** Compensation of board members is governed by section
 5.2 15.0575.

5.3 Subd. 6. **Application of other laws.** Meetings of the board are subject to chapter 13D.
 5.4 The board is subject to chapter 13. The board shall comply with section 15.0597.

5.5 Subd. 7. **Voting.** The affirmative vote of five board members is required for the board
 5.6 to take any action, including actions necessary to establish minimum nursing home
 5.7 employment standards under section 181.213.

5.8 Subd. 8. **Hearings and investigations.** To carry out its duties, the board shall hold public
 5.9 hearings on, and conduct investigations into, working conditions in the nursing home industry
 5.10 in accordance with section 181.213.

5.11 Subd. 9. **Department support.** The commissioner shall provide staff support to the
 5.12 board. The support includes professional, legal, technical, and clerical staff necessary to
 5.13 perform rulemaking and other duties assigned to the board. The commissioner shall supply
 5.14 necessary office space and supplies to assist the board in its duties.

5.15 Subd. 10. **Antitrust compliance.** The board shall establish operating procedures that
 5.16 meet all state and federal antitrust requirements and may prohibit board member access to
 5.17 data to meet the requirements of this subdivision.

5.18 **Sec. 6. [181.213] DUTIES OF THE BOARD; MINIMUM NURSING HOME**
 5.19 **EMPLOYMENT STANDARDS.**

5.20 Subdivision 1. **Authority to establish minimum nursing home employment**
 5.21 **standards.** (a) The board must adopt rules establishing minimum nursing home employment
 5.22 standards that are reasonably necessary and appropriate to protect the health and welfare
 5.23 of nursing home workers, to ensure that nursing home workers are properly trained about
 5.24 and fully informed of their rights under sections 181.211 to 181.217, and to otherwise satisfy
 5.25 the purposes of sections 181.211 to 181.217. Standards established by the board must
 5.26 include, as appropriate, standards on compensation and other working conditions for nursing
 5.27 home workers. The board may not adopt standards that are less protective of or beneficial
 5.28 to nursing home workers as any other applicable statute or rule or any standard previously
 5.29 established by the board unless there is a determination by the board under subdivision 2
 5.30 that existing standards exceed the operating payment rate and external fixed costs payment
 5.31 rates included in the most recent budget and economic forecast completed under section
 5.32 16A.103. In establishing standards under this section, the board must establish statewide
 5.33 standards, and may adopt standards that apply to specific nursing home occupations.

6.1 (b) The board must adopt rules establishing initial standards for wages for nursing home
6.2 workers no later than August 1, 2024. The board may use the authority in section 14.389
6.3 to adopt rules under this paragraph. The board shall consult with the department in the
6.4 development of these standards prior to beginning the rule adoption process.

6.5 (c) To the extent that any minimum standards that the board finds are reasonably
6.6 necessary and appropriate to protect the health and welfare of nursing home workers fall
6.7 within the jurisdiction of chapter 182, the board shall not adopt rules establishing the
6.8 standards but shall instead recommend the occupational health and safety standards to the
6.9 commissioner. The commissioner shall adopt nursing home health and safety standards
6.10 under section 182.655 as recommended by the board, unless the commissioner determines
6.11 that the recommended standard is outside the statutory authority of the commissioner,
6.12 presents enforceability challenges, is infeasible to implement, or is otherwise unlawful and
6.13 issues a written explanation of this determination.

6.14 Subd. 2. **Investigation of market conditions.** (a) The board must investigate market
6.15 conditions and the existing wages, benefits, and working conditions of nursing home workers
6.16 for specific geographic areas of the state and specific nursing home occupations. Based on
6.17 this information, the board must seek to adopt minimum nursing home employment standards
6.18 that meet or exceed existing industry conditions for a majority of nursing home workers in
6.19 the relevant geographic area and nursing home occupation. Except for standards exceeding
6.20 the threshold determined in paragraph (d), initial employment standards established by the
6.21 board are effective beginning January 1, 2025, and shall remain in effect until any subsequent
6.22 standards are adopted by rules.

6.23 (b) The board must consider the following types of information in making determinations
6.24 that employment standards are reasonably necessary to protect the health and welfare of
6.25 nursing home workers:

6.26 (1) wage rate and benefit data collected by or submitted to the board for nursing home
6.27 workers in the relevant geographic area and nursing home occupations;

6.28 (2) statements showing wage rates and benefits paid to nursing home workers in the
6.29 relevant geographic area and nursing home occupations;

6.30 (3) signed collective bargaining agreements applicable to nursing home workers in the
6.31 relevant geographic area and nursing home occupations;

6.32 (4) testimony and information from current and former nursing home workers, worker
6.33 organizations, nursing home employers, and employer organizations;

- 7.1 (5) local minimum nursing home employment standards;
7.2 (6) information submitted by or obtained from state and local government entities; and
7.3 (7) any other information pertinent to establishing minimum nursing home employment
7.4 standards.

7.5 (c) In considering wage and benefit increases, the board must determine the impact of
7.6 nursing home operating payment rates determined pursuant to section 256R.21, subdivision
7.7 3, and the employee benefits portion of the external fixed costs payment rate determined
7.8 pursuant to section 256R.25. If the board, in consultation with the commissioner of human
7.9 services, determines the operating payment rate and employee benefits portion of the external
7.10 fixed costs payment rate will increase to comply with the new employment standards, the
7.11 board shall report to the legislature the increase in funding needed to increase payment rates
7.12 to comply with the new employment standards and must make implementation of any new
7.13 nursing home employment standards contingent upon an appropriation, as determined by
7.14 sections 256R.21 and 256R.25, to fund the rate increase necessary to comply with the new
7.15 employment standards.

7.16 (d) In evaluating the impact of the employment standards on payment rates determined
7.17 by sections 256R.21 and 256R.25, the board, in consultation with the commissioner of
7.18 human services, must consider the following:

7.19 (1) the statewide average wage rates for employees pursuant to section 256R.10,
7.20 subdivision 5, and benefit rates pursuant to section 256R.02, subdivisions 18 and 22, as
7.21 determined by the annual Medicaid cost report used to determine the operating payment
7.22 rate and the employee benefits portion of the external fixed costs payment rate for the first
7.23 day of the calendar year immediately following the date the board has established minimum
7.24 wage and benefit levels;

7.25 (2) compare the results of clause (1) to the operating payment rate and employee benefits
7.26 portion of the external fixed costs payment rate increase for the first day of the second
7.27 calendar year after the adoption of any nursing home employment standards included in the
7.28 most recent budget and economic forecast completed under section 16A.103; and

7.29 (3) if the established nursing home employment standards result in an increase in costs
7.30 that exceed the operating payment rate and external fixed costs payment rate increase
7.31 included in the most recent budget and economic forecast completed under section 16A.103,
7.32 effective on the proposed implementation date of the new nursing home employment
7.33 standards, the board must determine if the rates will need to be increased to meet the new

8.1 employment standards and the standards must not be effective until an appropriation sufficient
8.2 to cover the rate increase and federal approval of the rate increase is obtained.

8.3 (e) The budget and economic forecasts completed under section 16A.103 shall not
8.4 assume an increase in payment rates determined under chapter 256R resulting from the new
8.5 employment standards until the board certifies the rates will need to be increased and the
8.6 legislature appropriates funding for the increase in payment rates.

8.7 Subd. 3. **Review of standards.** At least once every two years, the board shall:

8.8 (1) conduct a full review of the adequacy of the minimum nursing home employment
8.9 standards previously established by the board; and

8.10 (2) following that review, adopt new rules, amend or repeal existing rules, or make
8.11 recommendations to adopt new rules or amend or repeal existing rules for minimum nursing
8.12 home employment standards using the expedited rulemaking process in section 14.389, as
8.13 appropriate to meet the purposes of sections 181.211 to 181.217.

8.14 Subd. 4. **Conflict.** (a) In the event of a conflict between a standard established by the
8.15 board in rule and a rule adopted by another state agency, the rule adopted by the board shall
8.16 apply to nursing home workers and nursing home employers.

8.17 (b) Notwithstanding paragraph (a), in the event of a conflict between a standard
8.18 established by the board in rule and a rule adopted by another state agency, the rule adopted
8.19 by the other state agency shall apply to nursing home workers and nursing home employers
8.20 if the rule adopted by the other state agency is adopted after the board's standard and the
8.21 rule adopted by the other state agency is more protective or beneficial than the board's
8.22 standard.

8.23 (c) Notwithstanding paragraph (a), if the commissioner of health determines that a
8.24 standard established by the board in rule or recommended by the board conflicts with
8.25 requirements in federal regulations for nursing home certification or with state statutes or
8.26 rules governing licensure of nursing homes, the federal regulations or state nursing home
8.27 licensure statutes or rules shall take precedence, and the conflicting board standard or rule
8.28 shall not apply to nursing home workers or nursing home employers.

8.29 Subd. 5. **Effect on other agreements.** Nothing in sections 181.211 to 181.217 shall be
8.30 construed to:

8.31 (1) limit the rights of parties to a collective bargaining agreement to bargain and agree
8.32 with respect to nursing home employment standards; or

9.1 (2) diminish the obligation of a nursing home employer to comply with any contract,
9.2 collective bargaining agreement, or employment benefit program or plan that meets or
9.3 exceeds, and does not conflict with, the minimum standards and requirements in sections
9.4 181.211 to 181.217 or established by the board.

9.5 **Sec. 7. [181.214] DUTIES OF THE BOARD; TRAINING FOR NURSING HOME**
9.6 **WORKERS.**

9.7 Subdivision 1. **Certification of worker organizations.** The board shall certify worker
9.8 organizations that it finds are qualified to provide training to nursing home workers according
9.9 to this section. The board shall by rule establish certification criteria that a worker
9.10 organization must meet in order to be certified and provide a process for renewal of
9.11 certification upon the board's review of the worker organization's compliance with this
9.12 section. In adopting rules to establish certification criteria under this subdivision, the board
9.13 may use the authority in section 14.389. The criteria must ensure that a worker organization,
9.14 if certified, is able to provide:

9.15 (1) effective, interactive training on the information required by this section; and

9.16 (2) follow-up written materials and responses to inquiries from nursing home workers
9.17 in the languages in which nursing home workers are proficient.

9.18 Subd. 2. **Curriculum.** (a) The board shall establish requirements for the curriculum for
9.19 the nursing home worker training required by this section. A curriculum must at least provide
9.20 the following information to nursing home workers:

9.21 (1) the applicable compensation and working conditions in the minimum standards or
9.22 local minimum standards established by the board;

9.23 (2) the antiretaliation protections established in section 181.216;

9.24 (3) information on how to enforce sections 181.211 to 181.217 and on how to report
9.25 violations of sections 181.211 to 181.217 or of standards established by the board, including
9.26 contact information for the Department of Labor and Industry, the board, and any local
9.27 enforcement agencies, and information on the remedies available for violations;

9.28 (4) the purposes and functions of the board and information on upcoming hearings,
9.29 investigations, or other opportunities for nursing home workers to become involved in board
9.30 proceedings;

9.31 (5) other rights, duties, and obligations under sections 181.211 to 181.217;

10.1 (6) any updates or changes to the information provided according to clauses (1) to (5)
10.2 since the most recent training session;

10.3 (7) any other information the board deems appropriate to facilitate compliance with
10.4 sections 181.211 to 181.217; and

10.5 (8) information on labor standards in other applicable local, state, and federal laws, rules,
10.6 and ordinances regarding nursing home working conditions or nursing home worker health
10.7 and safety.

10.8 (b) Before establishing initial curriculum requirements, the board must hold at least one
10.9 public hearing to solicit input on the requirements.

10.10 Subd. 3. **Topics covered in training session.** A certified worker organization is not
10.11 required to cover all of the topics listed in subdivision 2 in a single training session. A
10.12 curriculum used by a certified worker organization may provide instruction on each topic
10.13 listed in subdivision 2 over the course of up to three training sessions.

10.14 Subd. 4. **Annual review of curriculum requirements.** The board must review the
10.15 adequacy of its curriculum requirements at least annually and must revise the requirements
10.16 as appropriate to meet the purposes of sections 181.211 to 181.217. As part of each annual
10.17 review of the curriculum requirements, the board must hold at least one public hearing to
10.18 solicit input on the requirements.

10.19 Subd. 5. **Duties of certified worker organizations.** A certified worker organization:

10.20 (1) must use a curriculum for its training sessions that meets requirements established
10.21 by the board;

10.22 (2) must provide trainings that are interactive and conducted in the languages in which
10.23 the attending nursing home workers are proficient;

10.24 (3) must, at the end of each training session, provide attending nursing home workers
10.25 with follow-up written or electronic materials on the topics covered in the training session,
10.26 in order to fully inform nursing home workers of their rights and opportunities under sections
10.27 181.211 to 181.217;

10.28 (4) must make itself reasonably available to respond to inquiries from nursing home
10.29 workers during and after training sessions; and

10.30 (5) may conduct surveys of nursing home workers who attend a training session to assess
10.31 the effectiveness of the training session and industry compliance with sections 181.211 to

11.1 181.217 and other applicable laws, rules, and ordinances governing nursing home working
11.2 conditions or worker health and safety.

11.3 Subd. 6. **Nursing home employer duties regarding training.** (a) A nursing home
11.4 employer must ensure that every two years each of its nursing home workers completes one
11.5 hour of training that meets the requirements of this section and is provided by a certified
11.6 worker organization. The nursing home employer must certify its compliance with this
11.7 subdivision to the board. A nursing home employer may, but is not required to, host training
11.8 sessions on the premises of the nursing home.

11.9 (b) If requested by a certified worker organization, a nursing home employer must, after
11.10 a training session provided by the certified worker organization, provide the certified worker
11.11 organization with the names and contact information of the nursing home workers who
11.12 attended the training session, unless a nursing home worker opts out according to paragraph
11.13 (c).

11.14 (c) A nursing home worker may opt out of having the worker's nursing home employer
11.15 provide the worker's name and contact information to a certified worker organization that
11.16 provided a training session attended by the worker by submitting a written statement to that
11.17 effect to the nursing home employer.

11.18 Subd. 7. **Compensation.** A nursing home employer must compensate its nursing home
11.19 workers at their regular hourly rate of wages and benefits for each hour of training completed
11.20 as required by this section and reimburse any travel expenses if the training sessions are
11.21 not held on the premises of the nursing home.

11.22 Sec. 8. **[181.215] REQUIRED NOTICES.**

11.23 Subdivision 1. **Provision of notice.** (a) Nursing home employers must provide notices
11.24 informing nursing home workers of the rights and obligations provided under sections
11.25 181.211 to 181.217 of applicable minimum nursing home employment standards and local
11.26 minimum standards and that for assistance and information, nursing home workers should
11.27 contact the Department of Labor and Industry. A nursing home employer must provide
11.28 notice using the same means that the nursing home employer uses to provide other
11.29 work-related notices to nursing home workers. Provision of notice must be at least as
11.30 conspicuous as:

11.31 (1) posting a copy of the notice at each work site where nursing home workers work
11.32 and where the notice may be readily seen and reviewed by all nursing home workers working
11.33 at the site; or

12.1 (2) providing a paper or electronic copy of the notice to all nursing home workers and
 12.2 applicants for employment as a nursing home worker.

12.3 (b) The notice required by this subdivision must include text provided by the board that
 12.4 informs nursing home workers that they may request the notice to be provided in a particular
 12.5 language. The nursing home employer must provide the notice in the language requested
 12.6 by the nursing home worker. The board must assist nursing home employers in translating
 12.7 the notice in the languages requested by their nursing home workers.

12.8 Subd. 2. **Minimum content and posting requirements.** The board must adopt rules
 12.9 under section 14.389 specifying the minimum content and posting requirements for the
 12.10 notices required in subdivision 1. The board must make available to nursing home employers
 12.11 a template or sample notice that satisfies the requirements of this section and rules adopted
 12.12 under this section.

12.13 Sec. 9. **[181.216] RETALIATION PROHIBITED.**

12.14 (a) A nursing home employer shall not discharge, discipline, penalize, interfere with,
 12.15 threaten, restrain, coerce, or otherwise retaliate or discriminate against a nursing home
 12.16 worker because the person has exercised or attempted to exercise rights protected under
 12.17 this act, including but not limited to:

12.18 (1) exercising any right afforded to the nursing home worker under sections 181.211 to
 12.19 181.217;

12.20 (2) participating in any process or proceeding under sections 181.211 to 181.217,
 12.21 including but not limited to board hearings, board or department investigations, or other
 12.22 related proceedings; or

12.23 (3) attending or participating in the training required by section 181.214.

12.24 (b) It shall be unlawful for an employer to:

12.25 (1) inform another employer that a nursing home worker or former nursing home worker
 12.26 has engaged in activities protected under sections 181.211 to 181.217; or

12.27 (2) report or threaten to report the actual or suspected citizenship or immigration status
 12.28 of a nursing home worker, former nursing home worker, or family member of a nursing
 12.29 home worker to a federal, state, or local agency for exercising or attempting to exercise any
 12.30 right protected under this act.

13.1 (c) A person found to have experienced retaliation in violation of this section shall be
13.2 entitled to back pay and reinstatement to the person's previous position, wages, benefits,
13.3 hours, and other conditions of employment.

13.4 Sec. 10. [181.217] ENFORCEMENT.

13.5 Subdivision 1. **Minimum nursing home employment standards.** Except as provided
13.6 in section 181.213, subdivision 4, paragraph (b) or (c), the minimum wages and other
13.7 working conditions established by the board in rule as minimum nursing home employment
13.8 standards shall be the minimum wages and standard conditions of labor for nursing home
13.9 workers or a subgroup of nursing home workers as a matter of state law. Except as provided
13.10 in section 181.213, subdivision 4, paragraph (b) or (c), it shall be unlawful for a nursing
13.11 home employer to employ a nursing home worker for lower wages than those established
13.12 as the minimum nursing home employment standards or under any other working conditions
13.13 that violate the minimum nursing home employment standards.

13.14 Subd. 2. **Investigations.** The commissioner may investigate possible violations of sections
13.15 181.214 to 181.217 or of the minimum nursing home employment standards established by
13.16 the board whenever it has cause to believe that a violation has occurred, either on the basis
13.17 of a report of a suspected violation or on the basis of any other credible information, including
13.18 violations found during the course of an investigation.

13.19 Subd. 3. **Civil action by nursing home worker.** (a) One or more nursing home workers
13.20 may bring a civil action in district court seeking redress for violations of sections 181.211
13.21 to 181.217 or of any applicable minimum nursing home employment standards or local
13.22 minimum nursing home employment standards. Such an action may be filed in the district
13.23 court of the county where a violation or violations are alleged to have been committed or
13.24 where the nursing home employer resides, or in any other court of competent jurisdiction,
13.25 and may represent a class of similarly situated nursing home workers.

13.26 (b) Upon a finding of one or more violations, a nursing home employer shall be liable
13.27 to each nursing home worker for the full amount of the wages, benefits, and overtime
13.28 compensation, less any amount the nursing home employer is able to establish was actually
13.29 paid to each nursing home worker, and for an additional equal amount as liquidated damages.
13.30 In an action under this subdivision, nursing home workers may seek damages and other
13.31 appropriate relief provided by section 177.27, subdivision 7, or otherwise provided by law,
13.32 including reasonable costs, disbursements, witness fees, and attorney fees. A court may also
13.33 issue an order requiring compliance with sections 181.211 to 181.217 or with the applicable
13.34 minimum nursing home employment standards or local minimum nursing home employment

14.1 standards. A nursing home worker found to have experienced retaliation in violation of
14.2 section 181.216 shall be entitled to back pay and reinstatement to the worker's previous
14.3 position, wages, benefits, hours, and other conditions of employment.

14.4 (c) An agreement between a nursing home employer and nursing home worker or labor
14.5 union that fails to meet the minimum standards and requirements in sections 181.211 to
14.6 181.217 or established by the board is not a defense to an action brought under this
14.7 subdivision.

14.8 **Sec. 11. INITIAL APPOINTMENTS.**

14.9 The governor shall make initial appointments to the Minnesota Nursing Home Workforce
14.10 Standards Board under Minnesota Statutes, section 181.212, no later than August 1, 2023.

14.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.