



Minnesota Nursing Home Workforce Standards Board

Annual report

Report to the Minnesota Legislature, Dec. 1, 2023

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Getting started: First months of the Minnesota Nursing Home Workforce Standards Board

Governing statute

The Minnesota Nursing Home Workforce Standards Act was passed as part of the Omnibus Jobs, Economic Development, Labor and Industry appropriations bill, SF 3035, Session Law Chapter 53 and codified as 2023 Minnesota Statutes sections 181.211 to 181.217. The statute lays out the building blocks for a board that will, through expedited rulemaking, set compensation standards for nursing home workers that are “reasonably necessary and appropriate to protect the health and welfare of nursing home workers” and ensure nursing home workers are trained about these standards. Further, the statute dictates the initial standards for wages must be completed by Aug. 1, 2024. Section 4, subdivision 11 of the law requires the executive director to submit an annual report by Dec. 1, 2023, and each Dec. 1 thereafter to the chairs and ranking minority members of the Minnesota 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 as to how the Nursing Home Workforce Standards Board (NHWSB) should conduct its work, including gathering data, reviewing collective bargaining agreements, and hearing testimony from workers and employers. It also directs the 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

The 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 workers 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, Avera Morningside Heights Care Center, Marshall, Minnesota Term: Aug. 2, 2023, through Jan. 6, 2025</p>
<p>Katie Lundmark Director of Operations, Ecumen, Shoreview, Minnesota Term: Aug. 16, 2023, through Jan. 5, 2026</p>	

Members representing nursing home workers or worker organizations

<p>Jamie Gulley President, SEIU Healthcare Minnesota and Iowa, St. Paul, Minnesota. Term: Aug. 2, 2023, through Jan. 5, 2026</p>	<p>Michele Fredrickson Licensed Practical Nurse (LPN) and Staff Representative, United Steelworkers (USW), Eveleth, Minnesota Term: Aug. 2, 2023, through Jan. 6, 2025</p>
<p>Michelle Armstrong Licensed Practical Nurse (LPN), United Food and Commercial Workers 1189 (UFCW 1189), St. Paul, MN Term: Aug. 16, 2023, through Jan. 4, 2027</p>	

Board support

The NHWSB is supported by Department of Labor and Industry (DLI) staff members and an executive director. After an extensive search, Leah Solo was hired as the executive director and began her work Aug. 21, 2023. Previously, Solo has led organizations and campaigns to bring people together around common values and improve the lives of Minnesotans. Additionally, DLI staff members provide administrative, technical, communications and legal support to the NHWSB.

Board Meetings

The NHWSB’s initial meeting was Sept. 14, 2023. At that meeting, the board elected Jamie Gulley as board chair. The NHWSB also agreed to set up three workgroups to address specific statutory responsibilities and make

recommendations to the full board: the Data Workgroup; the Public Hearing and Engagement Workgroup; and the Worker Organization Certification and Training Workgroup. The NHWSB's second meeting, Oct. 12, covered bylaws, workgroup progress and processes for making decisions. At the third meeting, Nov. 9, the NHWSB directed staff to begin drafting rules for certification of worker organizations. 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 the NHWSB's initial activity has been centered around the three workgroups established at the first meeting. Each workgroup includes 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 general counsel staff members, have supported each workgroup and meeting.

Data Workgroup

The NHWSB Act lays out several types of data that must be researched to set 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 sets of data are that already exist and how best to analyze it. Data work will also include researching the average hourly wage for a given occupation in a nursing home.

Thus far, data sources include the Minnesota Department of Human Services (DHS), Minnesota Department of Employment and Economic Development (DEED) and DLI. None of the data sets on their own provide sufficient accurate average hourly wages, but it was concluded the data DHS collects and maintains provides the most comprehensive wage and benefit data. The workgroup will continue to explore other available data.

As of the third meeting, the workgroup asked DHS to conduct further analysis on two occupations: certified nursing assistants (CNAs) and dietary workers. Combined, these two occupations make up the majority of workers who will be covered by the NHWSB standards and also represent the largest direct and indirect care nursing home occupations. This analysis will inform whether the NHWSB can draw conclusions about wages across the industry to help guide its work.

The Data Workgroup met: Sept. 29 to discuss the purpose of the group and the questions the workgroup needed to answer; Oct. 9 to hear presentations about the basics of the DHS and DEED data sets; Oct. 23 to discuss DHS data about CNAs and dietary workers, as well as gathering Collective Bargaining Agreements (CBA); and Nov. 16 to hear initial results from DHS's work on wage data. 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.

Public Hearing and Engagement Workgroup

Though the NHWSB Act prescribes the use of expedited rulemaking, it also asks the NHWSB to gather testimony from workers and employers, as well as hold a public hearing on 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 Public Hearing and Engagement Workgroup has laid out an ambitious plan to gather information and testimony. There are four methods the board intends to use to gather information.

1. Online questionnaire: The NHWSB is building an online questionnaire to query nursing home workers, employers, and members of the public about nursing home working conditions, wages and benefits, among other topics. This will produce quantitative and qualitative data from those who are not able to attend an in-person or live event.
2. Information gathering visits: The NHWSB is planning a small series of visits to nursing homes that will include board members accompanying nursing home workers through their workday, conversations with nursing home administrators and facility tours.
3. Online public forums: The NHWSB intends to host two online public forums to allow members of the public to speak directly to NHWSB members about their experiences. One will likely be during the day and one in the evening.
4. In-person public forums: In late winter, the NHWSB plans to schedule three in-person public forums, one in the Twin Cities and two in Greater Minnesota, reflecting the distribution of nursing homes throughout the state. These forums will allow nursing home workers and employers to share their experiences with NHWSB members.

With this mix of virtual and in-person options, along with working with partner organizations, the NHWSB will have a significant amount of information to help guide its work.

The Public Hearing and Engagement Workgroup met: Oct. 2 to discuss the purpose and scope of the work; Oct. 12 to review an initial draft plan; Oct. 23 to discuss a revised plan for public engagement; and Nov. 20 to discuss updates to the plan, which include proposed dates and locations for public hearings. 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.

Worker Organization Certification and Training Workgroup

In addition to setting standards for nursing home workers, the NHWSB Act specifies the NHWSB must certify worker organizations to train nursing home workers about the standards. The Worker Organization Certification and Training Workgroup aims to draft a process before the end of the year. That will allow the NHWSB time to certify organizations before the standards are established. In turn, that will give the organizations the ability to start training as soon as the standards are set.

The Worker Organization Certification and Training Workgroup is considering not only the requirements laid out in statute, but also the needs of the employers, worker organizations and state of Minnesota when accessing data and the process for ensuring all workers are trained properly. It will include an initial application, renewal application, and policies and procedures for processing applications.

The Worker Organization Certification and Training Workgroup met: Sept. 29 to discuss the scope and purpose of the workgroup; Oct. 11 to review options on which to model the certification process; Oct. 23 to examine a draft application; Nov. 1 to critique a second draft of the application and an initial draft of the renewal

application, policies and procedures; and Nov. 8 to review updated versions of all documents before the full board meets in November. Agendas, minutes and information about meeting dates for the Worker Organization Certification and Training Workgroup are available online at dli.mn.gov/about-department/boards-and-councils/nhwsb-certificationtraining-workgroup.

Looking ahead: Standards in 2024

While the workgroups and NHWSB have made good progress to date, the NHWSB has a significant amount of work to do to have initial standards that meet or exceed existing industry standards for the majority of nursing home workers in the relevant areas and occupations completed by Aug. 1, 2024, as the statute dictates.

Draft plans for the coming year, in addition to regular meetings of the board, include:

- Dec. 14 - complete the first draft of the process for certification of worker organizations;
- Dec. 15 - begin expedited rulemaking process for certification of worker organizations;
- Jan. 14 - launch online questionnaire and schedule for public engagement;
- Jan. 15 through Feb. 11 - information-gathering events occur;
- Feb. 12 through March 10 - online and in-person public forums;
- March 13 - public testimony and data gathering completed;
- March 14 - begin initial standards drafting;
- March 18 - begin expedited rulemaking process for initial standards;
- Spring 2024 - draft curriculum for training workers;
- mid-May - complete certification of worker organizations rules;
- June - launch application for certification of worker organizations;
- Aug. 1 - complete initial standards rules;
- Aug. 2 - worker organizations can begin training workers; and
- Fall 2024 - establish waiver and variance processes.

Challenges

Though the NHWSB has started its work quickly and diligently, making swift progress, it is not without its challenges.

One major challenge is the timeline. To have a chance at having standards completed by Aug. 1, 2024, the NHWSB must have a draft completed by March, meaning data must be gathered and testimony taken in winter 2024. Everything from staff capacity to inclement weather could affect the board's ability to accomplish this goal.

Another major challenge is gathering data. The data currently gathered by the state of Minnesota does not directly correlate to the questions being asked by the statute. Data experts have been doing their best to research what the best data will be, but, as is often the case, no perfect data set exists.

Finally, though the NHWSB has a clear and narrow directive focusing on workers, the overall environment in which nursing homes exist is complicated and influenced by many stressors from the lasting effects of the COVID-19 pandemic to the staffing crisis to Medicare and Medicaid budgets and regulations. The board will focus on the charge in front of it within this environment.

Conclusion

Though there is much to do, the Nursing Home Workforce Standards Board is off to a good start, getting to work, gathering information, and making progress toward its deadlines in 2024.