



MINNESOTA

NURSING HOME WORKFORCE STANDARDS BOARD

Holiday Pay and Posting Requirements - An overview

A webinar for employers

Agenda

- Background on NHWSB
- Holiday pay rules overview
- Who is a nursing home worker?
- How to modify the standard list of holidays and times
- Notes
- Posting requirements
- Frequently Asked Questions

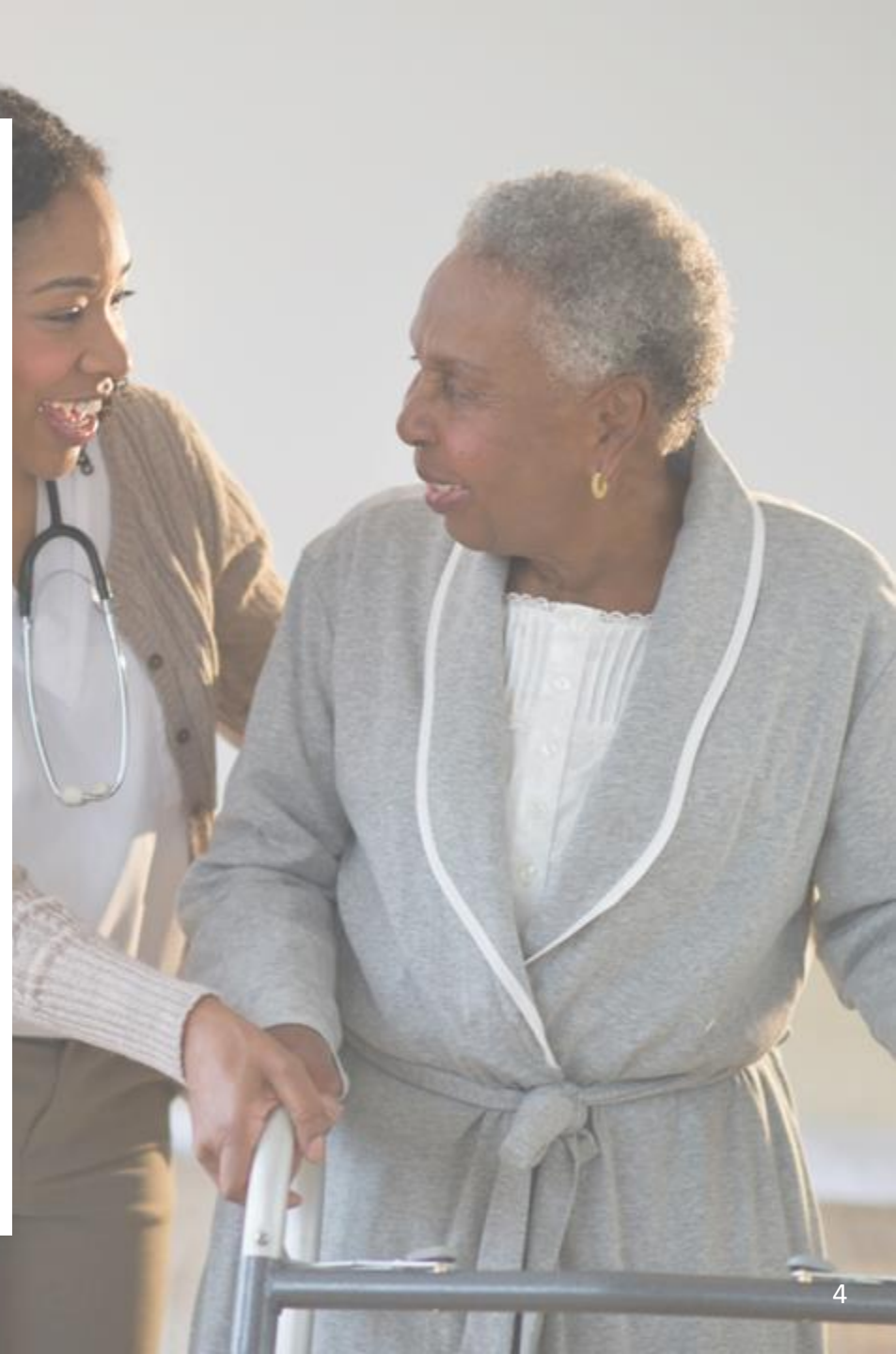
Background

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.

For more information about the Board, please visit [Nursing Home Workforce Standards Board | Minnesota Department of Labor and Industry \(mn.gov\)](#)

Holiday Pay Rules- Overview

- The Holiday Pay rules are moving toward a January 1, 2025, implementation date.
- Nursing home workers who work on 11 state holidays are paid at least time and a half.
- The day includes all hours from midnight to midnight.



The 11 state Holidays

1. New Year's Day, January 1;
2. Martin Luther King's Birthday, the third Monday in January;
3. Washington's and Lincoln's Birthday, the third Monday in February;
4. Memorial Day, the last Monday in May;
5. Juneteenth, June 19;
6. Independence Day, July 4;
7. Labor Day, the first Monday in September;
8. Indigenous Peoples' Day, the second Monday in October;
9. Veterans Day, November 11;
10. Thanksgiving Day, the fourth Thursday in November; and
11. Christmas Day, December 25.

Who is a nursing home worker?

§181.211 Subd. 2. states:

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

Examples of nursing home workers

(including but not limited to)

- Certified Nursing Assistant (CNA)
- TMA
- Licensed Practical Nurse (LPN)
- Registered Nurse, Non-Director (RN)
- Dietary
- Housekeeping
- Activity Aides

OPTIONAL: How to modify the standard days and times

Do you have exclusive representation?

Yes

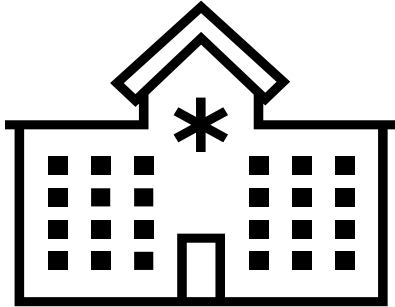
Come to an agreement in the manner that you usually would in order to change a condition of a contract

No

Reach an agreement with a majority of affected workers

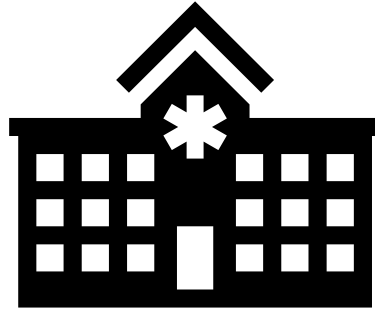
Example scenarios

Facility #1



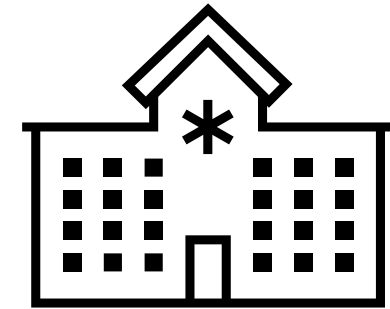
No bargaining units

Facility #2



Multiple Bargaining units

Facility #3



Mix of bargaining units and unrepresented workers who also qualify as nursing home workers under the NHWSB Act

- have different agreements
- have the same agreement
- have an agreement with one but not the other
- have no agreements and just keep the state holiday list as is. Same with hours.

- have different agreements with each unit
- have the same agreement, keep the list of state holidays as is. Same with hours.

- come to an agreement with staff
- leave it as is with whatever holidays you had plus any from the state holiday list that were not previously listed.

Reminder: modifying the dates or times of holidays is optional

There is no need to modify the list.

The standard 11 holidays and times are the minimums that must be met.

Nursing homes can choose to modify dates or times of holidays to meet the standard, but it is not required to meet the standard.

To note:

- This is a minimum, not a maximum. An employer or a contract can offer more than time and a half pay on holidays, a larger list than the 11 days listed, and more.
- This rule applies to nursing home workers who are working on a holiday. It does not obligate employers to give all workers paid time off.
- This rule cannot be used to pay workers less than what is already in an employment contract. For instance, if an existing contract dictates that workers get paid double for working Christmas, this rule does not allow an employer to only pay time and a half.

Posting requirements- statutory language

181.215 REQUIRED NOTICES.

§Subdivision 1. **Provision of notice.**

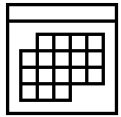
(a) Nursing home employers must provide notices informing nursing home workers of the rights and obligations provided under sections 181.211 to 181.217 of applicable minimum nursing home employment standards and local minimum standards and that for assistance and information, nursing home workers should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

- (1) posting a copy of the notice at each work site where nursing home workers work and where the notice may be readily seen and reviewed by all nursing home workers working at the site; or
- (2) providing a paper or electronic copy of the notice to all nursing home workers and applicants for employment as a nursing home worker.

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

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

Posting requirements



The rules going into effect on January 1, 2025, also include requirements that Nursing home employers must provide notice informing nursing home workers of the rights and obligations under the NHWSB Act.



A nursing home employer must provide notice using the same means that the nursing home employer uses to provide other legally required work-related notices to nursing home workers.




Posting requirements

Nursing home employers must, at a minimum:

- A. post a copy of the notice at each work site where nursing home workers work and in a location where the notice is readily seen and reviewed by all nursing home workers working at the site, and take steps to ensure that the notice is not altered, defaced, or covered by other material; or
- B. provide a paper or electronic copy of the notice to all nursing home workers and applicants for employment as a nursing home worker

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Frequently asked questions

Q: What does it mean to "reach an agreement with a majority of affected workers"?

1. Determine who in your staff qualify as nursing home workers under the rules. A majority would be fifty percent of those workers plus one.
2. Find a way to discuss and decide together. This could be a meeting with a vote at the end, a survey monkey, a petition in the break room, or any other reasonable way for workers to let their voices be heard.

Keep a record of the agreement for a minimum of 3 years after the observation of the modified holiday. This could be meeting minutes, records of vote numbers and when the vote was held, a copy of the petition or something similar.

Q: Who is considered a worker under this rule?

Minnesota Statutes, Section 181.211, Subd. 9. Nursing home worker. "Nursing home worker" means any worker who provides services in a nursing home in Minnesota, including direct care staff, non-direct care staff, and contractors, but excluding administrative staff, medical directors, nursing directors, physicians, and individuals employed by a supplemental nursing services agency.

Q: What if the employee is “exempt?”

If you have someone who meets the definition of nursing home worker, who is also exempt from overtime rules, this rule for time and a half if they work a holiday **would** still apply to them. If an employee meets the definition of nursing home worker, then they are conferred the benefits of the holiday pay rules.

The holiday pay contemplated in these rules is not overtime pay, so the provisions of the Fair Labor Standards Act and Overtime Pay laws dealing with overtime pay are not applicable; a nursing home worker that is overtime exempt under FLSA is still entitled to holiday pay.

Q: We have multiple bargaining units in our facility. Can we have different lists of holidays for different bargaining units?

Yes, assuming you have reached an agreement with the bargaining units to have those different lists of holidays, it is up to you and the bargaining units, so long as you meet the minimum number of holidays being paid at least time and a half.

Q: Do we have to pay time and a half for our workers whether they are working in the nursing home or a different building on our campus?

No, the NHWSB standards only apply to work done in for the nursing home.

Reach us with questions or concerns:

nhwsb.dli@state.mn.us



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Thank You!

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