



MINNESOTA

NURSING HOME WORKFORCE STANDARDS BOARD

Holiday pay and posting requirements: An overview

A webinar for employers



Agenda

- Background about Nursing Home Workforce Standards Board (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

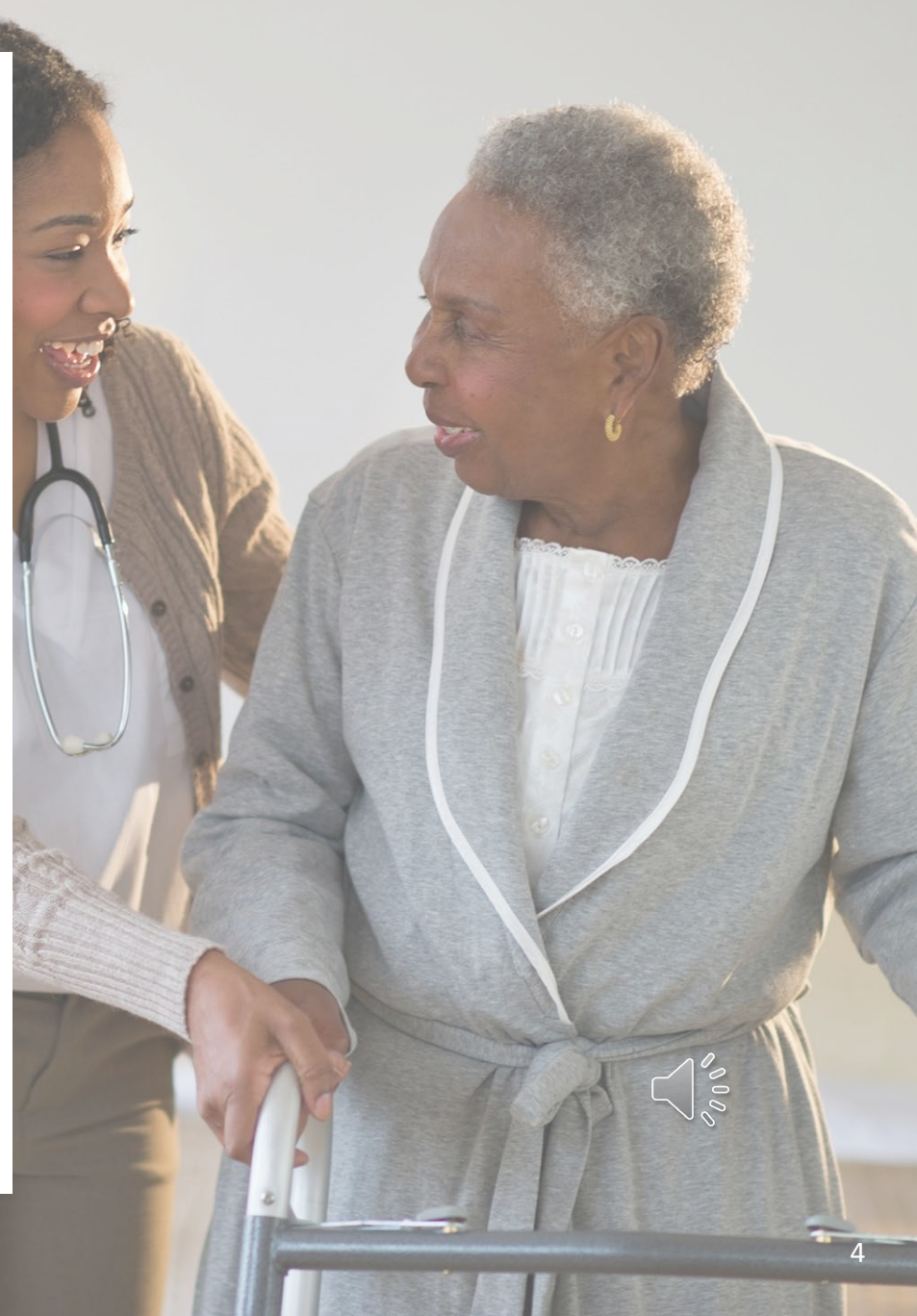
The Minnesota Nursing Home Workforce Standards Board Act was passed as part of the Omnibus Jobs, Economic Development, Labor and Industry appropriations bill, SF 3035, Session Law Chapter 53 and codified as 2023 Minnesota Statutes sections 181.211 to 181.217. The statute lays out the building blocks 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, visit the [Nursing Home Workforce Standards Board webpage](#).



Holiday pay rules overview

- The holiday pay rules go into effect Jan. 1, 2025.
- Nursing home workers who work on 11 state holidays are paid at least time and a half.
- Each holiday includes all hours from midnight to midnight.



The 11 state holidays

1. New Year's Day, Jan. 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, Nov. 11
10. Thanksgiving Day, the fourth Thursday in November
11. Christmas Day, Dec. 25



Who is a nursing home worker?

Minnesota Statutes section 181.211, subdivision 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

- Certified nursing assistant (CNA)
- Trained medication aide (TMA)
- Licensed practical nurse (LPN)
- Registered nurse, non-director (RN)
- Dietary
- Housekeeping
- Activity aides



Optional: Altering the standard date and times of the holidays

Nursing homes do not need to alter the list of holidays to meet the standards. However, the rules are drafted understanding some facilities may want an altered list of dates and times based on employee and business needs. The following are some ways to accomplish that; however, these rules were drafted to give flexibility to facilities in how they determine which holidays should be observed. A nursing facility may choose to not alter the list of holiday dates or times.



Optional: How to
modify the standard
days and times

Do you have exclusive representation?

Yes

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

No

Reach an agreement with a
majority of affected workers



Reminder: Modifying the dates or times of holidays is optional

There is no need to modify the holidays list.

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

To meet the standard, nursing homes can choose to modify dates or times of holidays with agreement from a majority of employees, but modifying holiday dates or times is not required to meet the standard.



If you do alter the dates, times of the holidays

- Any agreement to alter the dates or times must be made in the calendar year before the holidays are observed. This may translate to needing to make the agreements annually.
- There must be a written record of the agreement with the workers.
- The record must be retained for a minimum of three years following the observation of the modified holidays.

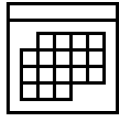


Notes

- 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 holidays 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 workers get paid double for working Christmas, this rule does not allow an employer to only pay time and a half.



Posting requirements



The rules going into effect Jan. 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 the nursing home employer uses to provide other legally required work-related notices to nursing home workers.



Posting requirements, continued

Nursing home employers must, at a minimum:

- A. post a copy of the notice at each worksite 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 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.

Statutory language about this requirement is found at Minn. Stat. 181.215, Required notices.



Posting requirement template

The posting template can be found at the Nursing Home Workforce Standards Board webpage under “Holiday pay resources.”





Frequently asked questions



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

1. Determine who in your staff qualifies as nursing home workers under the rules. A majority would be 50% 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, 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 three 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 (FLSA) and laws dealing with overtime pay are not applicable; a nursing home worker who is overtime exempt under FLSA is still entitled to holiday pay.



Q: Can we have different lists of holidays for different bargaining units?

Yes, assuming you have reached an agreement with the different bargaining units, there can be different lists of holidays, as long as they 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 for the nursing home.



Q: At times, our managers and directors take on a role that would qualify as a nursing home worker during a holiday. Are we required to pay them time and a half for that work?

An example of this might be a director of nursing acts as a CNA on Thanksgiving if the facility is short staffed. In this situation, ask your organization the following.

- Is this person getting paid as a nursing home worker that day or are they getting paid in their director role?
- Is this person getting paid extra as a nursing home worker?
- Are there other conditions of this person's employment that would qualify them as a nursing home worker for the day?



The Labor Standards Division protects the rights of workers and educates employers and employees about their rights and responsibilities under Minnesota employment laws.

Enforcement and dispute resolution

- Assist workers to secure unpaid wages
- Perform investigations of employer practices

Education and outreach

- Technical assistance, training, website and materials

Contact Labor Standards

- 651-284-5075, dli.laborstandards@state.mn.us, dli.mn.gov/laborlaw

Minnesota wage and hour laws (Chapters 177, 181, 181A)

- Minimum wage
- Overtime
- Earned Sick and Safe Time
- Deductions
- Child labor
- Nursing employees
- Pregnancy accommodations
- Pregnancy and parental leave
- Prevailing wage



Email NHWSB with questions or concerns at
nhwsb.dli@state.mn.us.



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Thank you

