

# Content: Certified Worker Organization Training Nursing Home Workforce Standards Board

Date: 2024

## Topic: Introduction

### Nursing Home Workforce Standards Board

2023 Legislature created the Nursing Home Workforce Standards Board (NHWSB) under the Nursing Home Workforce Standards Board Act MN Statute §§ 181.211 – 181.217 \_\_\_\_\_.

The Nursing Home Workforce Standards Board was created in law during the 2023 legislative session to conduct investigations into working conditions in the nursing home industry and adopt rules establishing minimum employment standards reasonably necessary and appropriate to protect the health and welfare of nursing home workers.

Who the Board is: the nine member Board is made up of three representatives from employers appointed by the Governor; three representatives from employees appointed by the Governor; and three representatives from three state agencies—the Department of Human Services, which oversees the state funding of nursing facilities, the Minnesota Department of Health, which licenses nursing facilities, and the Department of Labor and Industry, which enforces labor laws and rules, including the NHWSB Act..

Current Board members can be found here: [Nursing Home Workforce Standards Board members, Sept. 15, 2023 \(mn.gov\)](#)

#### What the Board does (generally)

The Board researches market conditions for nursing homes and nursing home workers in order to understand the existing working conditions in the nursing home industry, and then based on that information make rules meant to protect the health and welfare of people working in nursing homes. This includes public forums, data research, and collaboration with advocates who represent nursing home employers and nursing home workers.

The Board also ensures that nursing home workers know their rights and obligations under the NHWSB Act. It does this by using its internal expertise and information from public engagement in order to set processes for certification of worker organizations, who will provide nursing home workers with training on their rights, and the Board also sets requirements for what must be in those trainings.

If nursing home believe they cannot meet the standards set by the Board, the Board creates procedures for nursing homes to apply for waivers and variances from the standards.

The Board also reports to the legislature on their work and the cost to the state of the standards it creates for nursing home workers.

## Topic: Wage Standards and other standards

### Minimum Wages effective January 1, 2026 and January 1, 2027

If the legislature appropriates the money to fund these wages, the following Minimum Wages will apply, starting in January 1, 2026. The legislature must appropriate money to fund the states cost of these wages for them to go into effect. The legislature convenes in January 2025 and must finish their work no later than June 30, 2025. This is when the money must be appropriated by.

The General Wage is the least amount that someone working in a nursing home who meets the definition of nursing home worker should be paid. The Minimum Wages for Certified Nursing Assistant (CNA), Trained Medication Aide (TMA), and Licensed Practical Nurse (LPN) are the least amount that someone working in that role should be paid. There is a set of minimum wages that start on January 1, 2026 and then an increase to the minimum wages that begins January 1, 2027.

Occupation	Minimum Wage for the Occupation as of January 1, 2026	Minimum Wage for the Occupation as of January 1, 2027
General Wage	\$19	\$20.50
Certified Nursing Assistant (CNA)	\$22.50	\$24
Trained Medication Aide (TMA)	\$23.50	\$25
Licensed Practical Nurse (LPN)	\$27	\$28.50

Note: The general minimum wage applies to all nursing home workers as defined by the Nursing Home Workforce Standards Board Act who are not otherwise noted in this chart. For further clarification on who meets the definition of nursing home worker, see statute 181.211, subdivision 9.

### Waiver and Variances

If a nursing home has a waiver or variance from the minimum wages, please note that they have a waiver and what the terms and the minimum wages are associated with those terms here.

## **Holiday Pay- Effective January 1, 2025**

If a nursing home worker works in the nursing home on one of the designated holidays, they must be at least paid time and a half of their regular hourly wage for all hours worked during the holidays.

“Holiday” means the following dates: New Year's Day, January 1; Martin Luther King's Birthday, the third Monday in January; Washington's and Lincoln's Birthday, the third Monday in February; Memorial Day, the last Monday in May; Juneteenth, June 19; Independence Day, July 4; Labor Day, the first Monday in September; Indigenous Peoples Day, the second Monday in October; Veterans Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25.

If a nursing home worker works in the nursing home on one of these designated holidays, they must be at least paid time and a half of their regular hourly wage for all hours worked during the holidays.

This is a minimum set of holidays that must be paid at least time and a half of a worker's hourly wages. An employer may pay more than time and a half and may pay holiday pay on more days than these minimum 11 holidays. Some union contracts may have additional requirements about holidays and holiday pay, but those are always in addition to the rules set by the Board.

A holiday is a 24-hour period comprised of the time from midnight of the date designated as a holiday to the next midnight.

There are ways to change the list and the times. Agreement between the worker and employer can allow for up to 4 holidays being changed. For more details, see (rules)

## **Topic: Nursing Home Workforce Standards Board Act Other Rights and Protections**

### **Training**

The NHWSB Act directs the NHWSB to certify organizations to train nursing home workers on their rights under the NHWSB Act as well as other applicable laws and rules. Organizations that train nursing home workers on their rights must use a curriculum that meets requirements set by the NHWSB.

The training should be interactive and in a language that you, the worker, are proficient in.

You should receive follow up materials either electronically or in written form and be able to ask questions during or after the training.

The Certified Worker Organization may also follow up with you with a survey about how the training went.

A Certified Worker Organization may ask your employer for your contact information. If you do not want your contact information shared with the worker organization, you have the right to opt out of your employer giving out that information. To opt-out, submit that request in writing to your employer.

Your employer needs to certify that you have been trained for at least one hour every two years.

Finally, the NHWSB determines that you should be compensated for attending the training. “A nursing home employer must compensate its nursing home workers at their regular hourly rate of wages and benefits for each hour of training completed as required by this section and reimburse any reasonable travel expenses associated with attending training sessions not held on the premises of the nursing home.” Check with your employer about travel reimbursement and communicate with your trainers about any difficulties.

<https://www.revisor.mn.gov/statutes/cite/181.214#stat.181.214.7>

## Posting

The nursing home employer where you work should post notice of the rights and obligations under the NHWSB Act in the same way that you would typically be notified of work-related notices.

“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.”

Your employer must also notify you that you can request the notice in a language you are proficient in. The Board can assist in translation.

“(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.”

## Conflicts with Other Laws or Agreements

The rights and protections for nursing home workers established by the NHWSB Act are meant to be the minimum protections and standards employers must follow.

If a rule set by a different state agency conflicts with a rule that the NHWSB sets, the rule set by the NHWSB will apply to nursing home workers, unless the rule set by the different state agency was established after the rule set by the NHWSB AND that rule set by the other state agency is more protective or beneficial to nursing home workers.

If a rule set by the NHWSB conflicts with requirements in federal regulations for nursing home certification or with state statutes or rules governing licensure of nursing homes, the federal regulations or state nursing home licensure statutes or rules shall take precedence, and the conflicting board standard or rule shall not apply to nursing home workers or nursing home employers. The Commissioner of Health decides if such a conflict exists, not nursing home employers.

The rights and protections of the NHWSB Act do not limit the rights of workers to engage in collective bargaining (for example, by joining a union), or through a collective bargain (also called a CBA or a union contract) agree to nursing home employment standards OR mean that a nursing home employer doesn't have to comply with any contract, collective bargaining agreement, or employment benefit program or plan that meets or exceeds, and does not conflict with, the minimum standards and requirements under the NHWSB Act.

## **Anti-Retaliation**

There are rules against employers retaliating against workers for exercising their rights under the NHWSB Act.

### *Rules for nursing home employers:*

A nursing home employer shall not discharge, discipline, penalize, interfere with, threaten, restrain, coerce, or otherwise retaliate or discriminate against a nursing home worker because the person has exercised or attempted to exercise rights protected under The NHWSB Act (Minnesota Statutes, sections 181.211 to 181.217), including but not limited to:

- (1) exercising any right afforded to the nursing home worker under the NHWSB Act;
- (2) participating in any process or proceeding under the NHWSB Act, including but not limited to board hearings, board or department investigations, or other related proceedings; or
- (3) attending or participating in the training required by the NHWSB Act.

### *Rules for all employers:*

Additionally, it shall be unlawful for an employer to:

- (1) inform another employer that a nursing home worker or former nursing home worker has engaged in activities protected under the NHWSB Act; or
- (2) report or threaten to report the actual or suspected citizenship or immigration status of a nursing home worker, former nursing home worker, or family member of a nursing home worker to a federal, state, or local agency for exercising or attempting to exercise any right protected under the NHWSB Act.

### *There are consequences if these rules are broken:*

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

## **Topic: What to do if you suspect there are violations of the NHWSB Act**

There are two options if you suspect you are experiencing violations of the NHWSB Act: Contact Labor Standards at the Department of Labor and Industry or use what is called a Private Right of Action.

### **Labor Standards at the Department of Labor and Industry**

If you suspect the NHWSB Act is not being followed, you can contact the Labor Standards department at 651-284-5075 or [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us).

## Filing a lawsuit

You can also file a lawsuit, also referred to as taking civil action or exercising a private right of action.

- (a) One or more nursing home workers may bring a civil action in district court seeking redress for violations of sections [181.211](#) to [181.217](#) or of any applicable minimum nursing home employment standards or local minimum nursing home employment standards. Such an action may be filed in the district court of the county where a violation or violations are alleged to have been committed or where the nursing home employer resides, or in any other court of competent jurisdiction, and may represent a class of similarly situated nursing home workers.

If it is found that the NHWSB Act has been violated, the employer may be liable for damages.

- (b) Upon a finding of one or more violations, a nursing home employer shall be liable to each nursing home worker for the full amount of the wages, benefits, and overtime compensation, less any amount the nursing home employer is able to establish was actually paid to each nursing home worker, and for an additional equal amount as liquidated damages. In an action under this subdivision, nursing home workers may seek damages and other appropriate relief provided by section [177.27, subdivision 7](#), or otherwise provided by law, including reasonable costs, disbursements, witness fees, and attorney fees. A court may also issue an order requiring compliance with sections [181.211](#) to [181.217](#) or with the applicable minimum nursing home employment standards or local minimum nursing home employment standards. A nursing home worker found to have experienced retaliation in violation of section [181.216](#) shall be entitled to back pay and reinstatement to the worker's previous position, wages, benefits, hours, and other conditions of employment.

If you have a collective bargaining agreement (CBA, also called a union contract), and the conditions are less favorable than these standards under the NHWSB Act, that is not an excuse to be paid less than the wages and other standards under the NHWSB Act.

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

Resources:

Talk to your collective bargaining agent/union

The Office of Attorney General - [Hiring an attorney](#)

National Employment Lawyers Association - [Find-A-Lawyer](#)

Volunteer Lawyers Network – [I Need Help](#)

## Topic: Other important Laws, Rules, Ordinances

### Federal Staffing Rules

Federal Staffing mandates are not set by the NHWSB, but we know that it affects much of the nursing home workers and employers.

You can find the mandates listed here: [Federal Register :: Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting](#)

You can find a press release that summarizes this here: [Medicare and Medicaid Programs: Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting Final Rule \(CMS 3442-F\) | CMS](#)

This rule is phased in over 3-5 years, depending on if your facility is considered rural or non-rural.

### Earned Safe and Sick Time

Another recent development that affects many nursing home workers is the statewide Earned Safe and Sick Time Requirements. “Sick and safe time is paid leave employers must provide to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member or to seek assistance if an employee or their family member has experienced domestic abuse, sexual assault or stalking.” [Earned sick and safe time \(ESST\) | Minnesota Department of Labor and Industry \(mn.gov\)](#)

To ensure that your employer is meeting the minimum requirements for earned safe and sick time accumulation and usage, please visit [Earned sick and safe time \(ESST\) | Minnesota Department of Labor and Industry \(mn.gov\)](#)

- [MNOSHA](#)
  - Minnesota’s chapter of OSHA (Occupational Safety and Health Administration)
- [Safe Patient Handling Act](#)
- Every licensed health care facility in the state shall adopt a written safe patient handling policy establishing the facility's plan to achieve the goal of minimizing manual lifting of patients by nurses and other direct patient care workers by utilizing safe patient handling equipment. [MN Statute §182.6551 – §182.6554](#)
- [Employee’s Right to Know](#) and [HAZCOM](#)
  - Employers must evaluate their workplaces for the existence of hazardous substances, harmful physical agents, and infectious agents and to provide training and information to those employees covered under this act who are routinely exposed to those substances and agents. [MN Statute chapter 5206](#)
- [MNOSHA Ergonomics](#)
  - Employers must proactively address ergonomics issues in the workplace [MN Statutes §182.677](#)

- [National Labor Relations Act](#)
  - This federal act protects your right to discuss wages at work and encourages collective bargaining by protecting workers' full freedom of association
- [Minnesota paid family and medical leave](#)
  - The new Minnesota law will take effect on January 1, 2026, and will provide 12 weeks of paid family or medical leave

## **Topic: Updates to the Training and upcoming events**

### **Where to get info about upcoming Board events**

You can find information about the NHWSB here [Nursing Home Workforce Standards Board | Minnesota Department of Labor and Industry \(mn.gov\)](#)

The NHWSB has public meeting notifications posted there and you can find out more information about how to get involved with the NHWSB there as well.