

HOUSE OF REPRESENTATIVES

NINETY-FOURTH SESSION

H. F. No. **500**

02/13/2025 Authored by Zeleznikar, Franson, Baker, Backer, Knudsen and others
The bill was read for the first time and referred to the Committee on Human Services Finance and Policy
03/03/2025 Adoption of Report: Amended and re-referred to the Committee on Workforce, Labor, and Economic Development Finance and Policy
03/10/2025 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time
03/12/2025 Calendar for the Day
Bill was laid on the Table

- 1.1 A bill for an act
- 1.2 relating to labor; modifying the Nursing Home Workforce Standards Board;
- 1.3 amending Minnesota Statutes 2024, sections 181.212, subdivision 7; 181.213,
- 1.4 subdivisions 1, 2, 3; 181.214, subdivision 1; 181.215, subdivision 2.
- 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.6 Section 1. Minnesota Statutes 2024, section 181.212, subdivision 7, is amended to read:
- 1.7 Subd. 7. **Voting.** The affirmative vote of five board members is required for the board
- 1.8 to take ~~any~~ action, ~~including~~. An affirmative vote of, at minimum, six board members is
- 1.9 required for actions necessary to establish minimum nursing home employment standards
- 1.10 under section 181.213. ~~At least two of the five affirmative votes must be cast by the~~
- 1.11 ~~commissioner members or the commissioner's appointees,~~ including at least:
- 1.12 (1) two votes cast by members who are commissioners or commissioners' designees;
- 1.13 (2) two votes cast by members who represent nursing home employers or employer
- 1.14 organizations; and
- 1.15 (3) two votes cast by members who represent nursing home workers or worker
- 1.16 organizations.
- 1.17 Sec. 2. Minnesota Statutes 2024, section 181.213, subdivision 1, is amended to read:
- 1.18 Subdivision 1. **Authority to establish minimum nursing home employment**
- 1.19 **standards.** (a) The board must adopt rules establishing minimum nursing home employment
- 1.20 standards that are reasonably necessary and appropriate to protect the health and welfare
- 1.21 of nursing home workers, to ensure that nursing home workers are properly trained about
- 1.22 and fully informed of their rights under sections 181.211 to 181.217, and to otherwise satisfy

the purposes of sections 181.211 to 181.217. Standards established by the board must include standards on compensation for nursing home workers, and may include recommendations under paragraph (c). The board may not adopt standards that are less protective of or beneficial to nursing home workers as any other applicable statute or rule or any standard previously established by the board unless there is a determination by the board under subdivision 2 that existing standards exceed the operating payment rate and external fixed costs payment rates included in the most recent budget and economic forecast completed under section 16A.103. In establishing standards under this section, the board must establish statewide standards, and may adopt standards that apply to specific nursing home occupations.

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

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

Sec. 3. Minnesota Statutes 2024, section 181.213, subdivision 2, is amended to read:

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

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

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

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

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

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

(5) local minimum nursing home employment standards;

(6) information submitted by or obtained from state and local government entities; and

(7) any other information pertinent to establishing minimum nursing home employment standards.

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

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

~~(1) the statewide average wage rates for employees pursuant to section 256R.10, subdivision 5, and benefit rates pursuant to section 256R.02, subdivisions 18 and 22, as determined by the annual Medicaid cost report used to determine the operating payment rate and the employee benefits portion of the external fixed costs payment rate for the first~~

4.1 ~~day of the calendar year immediately following the date the board has established minimum~~
4.2 ~~wage and benefit levels;~~

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

4.7 ~~(3) if the established nursing home employment standards result in an increase in costs~~
4.8 ~~that exceed the operating payment rate and external fixed costs payment rate increase~~
4.9 ~~included in the most recent budget and economic forecast completed under section 16A.103,~~
4.10 ~~effective on the proposed implementation date of the new nursing home employment~~
4.11 ~~standards, the board must determine if the rates will need to be increased to meet the new~~
4.12 ~~employment standards and the standards must not be effective until an appropriation sufficient~~
4.13 ~~to cover the rate increase and federal approval of the rate increase is obtained.~~

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

4.18 (d) No standard, including Minnesota Rules, parts 5200.2060, 5200.2070, 5200.2080,
4.19 and 5200.2090, shall take effect unless the cost of the standard to each nursing facility
4.20 reimbursed under chapter 256R is estimated and paid for as described in paragraph (e).

4.21 (e) When determining the cost estimates and the required new appropriation for any
4.22 standard approved by the board, the commissioner of human services must:

4.23 (1) estimate each facility's rate impact in relation to the new standard. The estimate must
4.24 be facility-specific and based on information provided to the commissioner in a form and
4.25 manner determined by the commissioner about current wage rates at each facility;

4.26 (2) when determining the total and facility-specific costs to meet the standard, include:

4.27 (i) the increased costs to wages;

4.28 (ii) the employer's share of FICA taxes, Medicare taxes, state and federal unemployment
4.29 taxes, workers' compensation, pensions, and contributions to employee retirement accounts
4.30 cost increases attributable to a standard; and

4.31 (iii) the indirect costs, as defined by the board, resulting from the implementation of a
4.32 standard; and

(3) adjust nursing facility rates by the amounts determined in clause (2), items (i) to (iii), on the first day of the previous month before the implementation date of a standard.

(f) Payments to facilities under this section shall be included in the external fixed costs payment rate under section 256R.25.

(g) If the legislature does not approve an appropriation under this section, the new standard approved by the board does not take effect.

Sec. 4. Minnesota Statutes 2024, section 181.213, subdivision 3, is amended to read:

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

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

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

Sec. 5. Minnesota Statutes 2024, section 181.214, subdivision 1, is amended to read:

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

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

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

Sec. 6. Minnesota Statutes 2024, section 181.215, subdivision 2, is amended to read:

Subd. 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

- 6.1 a template or sample notice that satisfies the requirements of this section and rules adopted
- 6.2 under this section.