

## Office memo

**Date:** June 12, 2024

**To:** Nursing Home Workforce Standards Board

**From:** Leah Solo, Executive Director

### **RE: Calendar and upcoming work**

As standards move through the rule making process, below is an outline of major parts of our work over the next year. The Board can anticipate that the major items of work will be:

- Rule making
- Drafting Curriculum
- Implementing the Certification of Worker Organization Process
- Drafting and implementing the process for Waivers and Variances
- Seeking Appropriation
- Supporting the implementation of rules

### **Board Rule Making: Now-Finalized Rules**

#### *Already Done/In Progress:*

- ✓ The Board approves drafts of the rules setting initial standards and the rules setting notice posting requirements and certification criteria for worker organizations.
- The Revisor's Office reviews draft rules and approve them as to form. Once rules have been approved, staff finalizes Notice of Proposed Expedited Rules.
  - ❖ Note- the rules come back to the Board here to approve them as to form from the Revisor's Office.

#### *Next Steps:*

1. Submit Notice of proposed Expedited rules to the State Register. The State Register publishes on Mondays, and all items to be published in the State Register must be submitted by noon the preceding Tuesday.
2. Mail Notice of Proposed Expedited Rules to those required by statute and to those we are providing advance notice. Minn. R. 1400.2080, subp. 6.
3. Notice of Proposed Expedited Rules is published in State Register, which begins the 30-day comment period. Minn. Stat. § 14.389, subd. 2.
  - ❖ Note- this begins Public Comment Period.

4. At the conclusion of the comment period, any final modifications to the rule are made, the Order Adopting Rules is prepared, and the Final Rule Form is prepared and submitted to the Governor's Office. The usual practice of the Governor's Office is to respond to the submission of the Final Rule Form within 7 days.
  - ❖ Note- this step includes the rules coming back to the Board for potential modifications.
5. Submit Proposed Order Adopting Rules to the Office of Administrative Hearings for review and approval. An Administrative Law Judge has 14 days to review and either approve or disapprove of the Rules as Adopted. Minn. R. 1400.2410 subp. 3. Simultaneously, the Office of Administrative Hearings will request the Revisor to approve the rules as to form. The Revisor has 5 days, excluding weekends and holidays, to approve or disapprove a rule. Minn. Stat. § 14.08(a).
  - ❖ Note- when we talk about this, we often refer to the rules going to OAH.
6. The Board approves and signs Order Adopting Rules. The signed Order Adopting Rules is filed with the Office of Administrative Hearings.
  - ❖ Note- The Board will need to approve the draft rules here.
7. The Office of Administrative Hearings will file the signed Order Adopting Rules with the Secretary of State. Once the Revisor is notified by the Secretary of State that the adopted rules have been filed, the Revisor will prepare a Notice of Adoption. There is no statutory time limit for the Revisor to complete the Notice of Adoption, but turnaround is an average of two days. Simultaneously, the Notice of Filing with the Secretary of State is mailed to all who have requested such notice, and the governor's 14-day veto period begins. Minn Stat. § 14.05, subd. 6.
8. Submit notice of adoption of rule to State Register, for publication on October 21.
  - ❖ The Board will likely want to vote to submit the notice of adoption of rule to the State Register.
9. Notice of Adoption is published in State Register. The rule can take effect five days following the publishing of the Notice of Adoption.
10. Rule becomes effective.

## Training Workers

### *Building Curriculum*

- Drafting Curriculum
- Hold a Public Hearing on Curriculum
- Edit and Finalize Curriculum

### *Certifying Worker Organizations*

As they are currently written, the rules dictate that we would start our process of certifying worker organizations after January 1, 2025.

At our November 9, 2023 meeting, we passed a set of policies and procedures that the draft rules on certifying worker organizations were based on. These policies and procedures should be revisited along with the draft application that the Board examined to lay out the process for certifying worker organizations in the new year.

The Board will need to finalize the application, post it, accept applications, review applications, and certify. From posting the applications, we can expect this will take 2-4 months.

## Waivers and Variances

The Training and Certification Workgroup is currently working through ideas for a procedure to receive applications for and to grant waivers and variances. Statute dictates that we must have a procedure. Given that the first set of rules are potentially going into effect on January 1, 2025, we should have the procedure in place this year. This means in the coming months, the Board should be considering what information would be helpful to make this determination.

## Other Implementation Work

### *Creating How to's*

Board members have mentioned the need to create “How to” guidelines for Certified Worker Organizations and Nursing Facilities. Each will need some more guidance on what is expected of them in order to be in compliance with our statutes. These “How To” guidelines can also be crafted with an eye toward the notice requirements of Minn. Stat. 181.215.

### *Other Public Engagement*

Besides creating guiding documents, we should consider some other public engagement plans. Virtual webinars with questions and answer opportunities, presence at community events, or in person forums may be helpful to successfully launch the rules. This question is being taken up by the public engagement workgroup.

## Seeking Appropriation

In order for the rules to take affect in 2026, there will need to be additional funds for nursing homes Medicaid reimbursement rates. We will have to follow the cost through the November 2024 Forecast and February 2025 Forecast as well as the development of the budget that will be discussed in the 2025 Legislative session.

## Timeline

Month	Board /Draft Goals	Rulemaking/Legislative Process items
June, 2024	June 13- board meeting- Vote on Draft Rules from Revisor	Drafts with Revisors Office  May get published in <i>State Register</i>
July	July 18- Board Meeting- Vote on Draft Rules from Revisor	Potentially Public Comment
August	August 8- Board Meeting  <i>First Drafts- How To's for Nursing Facilities, Certified Worker Organizations.</i>	

	<i>Data workgroup comes to understandings on the differences in data sets.</i>	
September	September 12- Board Meeting <i>Hearing on Curriculum</i> <i>First Draft- Waivers and Variances</i>	
October	October 10- Board Meeting <i>Finalize public engagement plan about Rules</i>	Deadline Publish Notice of Adoption of Rules (for minimum wage) in <i>State Register</i>
November	November 14- Board Meeting <i>Finalize Curriculum (after rules finalizable)</i> <i>Launch process for Waivers and Variances</i> <i>Launch public engagement about Rules</i>	Nov 1- NHWSB Deadline for completing rules on Initial Wage Standards.  November Budget Forecast
December	December 1- Annual Report Due to Legislature December 12- Board Meeting	Deadline to Publish Notice of Adoption of Rules (for Holiday Pay, CWO, Posting) in <i>State Register</i>
January, 2025	January 9- Board Meeting <i>Have template notification postings available</i> <i>Open application for Certified Worker Organizations (CWO)</i> <i>Work with Agencies on Appropriation</i> <i>Open applications for waivers and variances</i>	Jan. 1- Holiday Pay, Certified Worker Organizations, Notification Rules go into effect.  Jan. 6- Legislative session begins- Budget year.  Jan. 28- Deadline for Gov's Budget
February	February 13- Board Meeting	February Budget Forecast
March	March 13- Board Meeting  <i>Potentially first round of certifications of worker organizations</i>	

April	April 10- Board Meeting	
May	May 8- Board Meeting <i>List of CWO made available for NH.</i>	May 19- Legislative session ends, budget should be complete.
Next Steps	<i>Public engagement around Minimum Wages</i> <i>Consider plan for next round of rules</i>	Seek CMS approval if needed. Wage Minimums go into effect Jan. 1, 2026