

Memo

Date: February 27, 2024

To: Nursing Home Workforce Standards Board

From: Leah Solo

RE: Nursing home occupations

The law clearly allows the Board to set different standards by occupation (“In establishing standards under this section, the board must establish statewide standards, and may adopt standards that apply to specific nursing home occupations,” Minn. Stat. § 181.213, subd. 1(c).) The NHWSB Act makes several references to nursing home occupations. The Board has been examining data on nursing home workers by occupation, as required:

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. Minn. Stat. § 181.213, subd. 2(a).

This leads us to a few questions:

- What are relevant and/or specific nursing home occupations?
- What do these occupations do?
- Can they be grouped?
- Are there outliers? If so, what the Board do with them?
- If different occupations have different minimum wages, how would those wages be applied if a worker works in more than one department?
- Consistency among job titles and job responsibilities (both between nursing homes and between description and actual responsibilities)

Relevant/specific nursing home occupations

Statutory language:

As an initial matter, the statute provides a list of occupations that will not be subject to Board standards, and a list of broad worker categories that will be subject to Board standards Minn. Stat. § 181.211, subd. 9., as follows:

Included	Not included
<ul style="list-style-type: none"> • Direct Care staff • Non-direct care staff • Contractors 	<ul style="list-style-type: none"> • Administrative Staff • Nursing and Medical Directors • Physicians • Supplemental Nursing Service Agency Staff

Various Occupations

One source for identifying various nursing home occupations is the definition section of Minnesota Statutes chapter 256R, which governs nursing facility rates. The following occupations, which are listed in 256R and not excluded from our work pursuant to Minn. Stat. 181.211, subd. 9 include:

- Activities workers (section 256R.02, subd. 3)
- Dietician, chefs, cooks, dishwasher, other employees assigned to the kitchen and dining room (subd. 16)
- Direct Care registered nurses, licensed practical nurses, certified nursing assistants, trained medication aides, and employees conducting training in resident care topics (subd. 17)
- Housekeepers and other cleaning employees (subd. 24)
- Other laundry employees (subd. 26)
- Engineers, heating-plant employees, and other maintenance employees (subd. 29)
- Mental health workers, religious personnel, and other direct care employees (subd. 35)
- Other social work employees (subd. 48)

These statutes are publicly available and give the Board some idea of what relevant/specific nursing home occupations might be. These are by no means requirements to include separate wages for each of these, but merely a place to begin the conversation.

Job descriptions

It might be helpful to understand what these workers do on a day-to-day basis. Here are general notes on some employment areas named above. I put them together based on job descriptions that were provided to me by both the employer and employee sides of the Board. This is not an exhaustive list and the Board may want to discuss registered nurses, licensed practical nurses, engineers, maintenance workers and more.

Activities workers (Activities aide/Activities assistant): generally, work to help residents stay healthy and engaged with hobbies, crafts, exercise, family and religious involvement, and more. Includes coordinating programs, documenting conditions of residents. Duties and requirements ranged from being Basic Life Support certifications, documenting positive and negative behaviors, being subject to hostile residents and family members, maintaining knowledge of resident’s condition and reporting on their conditions.

Other employees assigned to the kitchen and dining room (Dietary Aide) generally deals with the assembly and serving of meals and snacks, sanitation of workstations and dining room. Job descriptions can span a wide

variety of duties including understanding Dysphasia textures, portion control, sanitation, and safety procedures, knowing menus and special diets, keeping inventory of food.

Cooks- prepares and serves food following specific recipes, diets, and instructions. Use of various equipment and knowledge of sanitation policies.

Housekeepers, other cleaning employees, other laundry (Housekeeping Aide/Laundry Aide) cleans the facility including residents' rooms, floors, walls, ceilings. Disposes of biohazardous waste and adheres to sanitation protocols. Laundry may or may not be a separate function. Laundry includes linens and residents' personal clothing.

Certified Nursing Assistant (CNA) is a position that must be registered on the Minnesota Nurse Aide registry and have completed a course of training. CNAs help with basic nursing care which can range from monitoring bowel movements, help with bathing, and mouth care, preparing residents for meals, monitoring conditions and communicating to other staff about resident conditions to assisting with transfers from the facility.

Groupings

The Board might consider job grouping methods as the Board sets standards.

One way the Board could consider grouping occupation is by certifications and licenses. For instance:

- The Minnesota Department of Health has the registry for nursing aids (CNAs).
- The Minnesota Nursing Board is charged with handling licensed practical nurses (LPN), registered nurse (RN), and advanced practice registered nurse (APRN).

Another method might be to group various job titles that essentially do the same thing. For instance, Certified Nursing Assistant, Nursing Assistant, Nurse's Aide could be similar positions in that they all require a worker to be certified with the Minnesota Nurse Aide registry. Or a Dietary Aide or Culinary Aide could be considered similar positions.

Other methods of grouping might look at general levels of responsibility for the residence, or the training required to do a job. These methods could cause larger groupings of occupations.

An additional option would be to follow some of the language in the statute, grouping direct care, nondirect care, and contractors as groups of relevant occupations.

The Board could use resources like ONET [O*NET OnLine \(ononline.org\)](https://ononline.org), SOCs [SOC home : U.S. Bureau of Labor Statistics \(bls.gov\)](https://www.bls.gov/soc/), or NAICS codes [NAICS & SIC Identification Tools | NAICS Association](https://www.naics.org/) to assist with any of this.

Wage notices

If the Board chooses to have different wage minimums for different occupation, will be important to give guidance about notice laws. Minnesota has clear laws about notice of wages and employment conditions. Workers would need to be made aware and clear what their wages would be at any given time. More can be found here: [Employee wage notice | Minnesota Department of Labor and Industry \(mn.gov\)](https://www.mn.gov/employee-wage-notice)