

# Application Materials for Nursing Home Moratorium Exception

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*To obtain this information in a different format, call: 651-201-4200.*

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## Request for Proposals for Exceptions to the Nursing Home Moratorium

### Purpose

The commissioner of health is accepting written proposals from nursing homes and certified boarding care homes requesting funding through the moratorium exception process, according to Minn. Stat. § 144A.073. The commissioner of health, in coordination with the commissioner of human services, may approve such requests under conditions listed in the Minnesota Statutes. These conditions refer to categories of exceptions which are defined as:

- a) "Conversion" means the relocation of a nursing home bed from a nursing home to an attached hospital.
- b) "Relocation" means the movement of licensed nursing home beds or certified boarding care beds as permitted by state statute to promote equitable access across the state or to move the beds to another site.
- c) "Renovation" means extensive remodeling of an existing facility with a total cost exceeding ten percent of the appraised value of the facility or \$200,000, whichever is less. A renovation may include the replacement or upgrade of existing mechanical or electrical systems.
- d) "Replacement" means the construction of a completely new facility.
- e) "Addition" means the construction of new space to an existing facility.
- f) "Upgrading" means a change in the level of licensure of a bed from a boarding care bed to a nursing home bed in a certified boarding care facility.
- g) "Phased project" means a proposal that identifies construction occurring with more than one distinct completion date. To be considered a distinct completion, each phase must have construction that is ready for resident use, as determined by the commissioner, which is not dependent on similar commissioner approval for future phases of construction. The commissioner of human services shall only allow rate adjustments for construction projects in phases if the proposal from a facility identifies construction in phases and each phase can be approved for use independent of the other phases.
- h) "Consolidation" means a project that meets the criteria for "consolidation of nursing facilities" as outlined in 144A.071 Subdivision 4d.

### Appropriation Available

The amount of the legislative appropriation available for the total annual additional costs to the Medical Assistance program for this Request for Proposals (RFP) is approximately **\$4,984,509**.

**NOTE: As of October 1, 2022, Minn. Stat. § 256B.434, Subd. 4f, allows projects with costs less than \$ 2,359,743 to proceed without applying for a moratorium exception under this process.**

### Eligibility to Submit a Proposal

A proposal for an exception to the nursing home moratorium may be submitted by an organization or individual authorized by a facility's governing board or management to prepare and submit a proposal to the commissioner of health.

## Method for Estimating Proposal Cost

The method that the commissioner will use for estimating the cost of a proposal is detailed in the application materials.

## Criteria for Review

Minn. Stat. § 144A.073, Subdivision 4a, states the criteria the commissioner of health is to consider in reviewing moratorium exception proposals:

Subdivision 4a. **Criteria for review.** In reviewing the application materials and submitted costs by an applicant to the moratorium process, the review panel shall consider the following criteria in recommending proposals:

- a) the extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults;
- b) the extent to which the project provides for the complete replacement of an outdated physical plant;
- c) the extent to which the project results in a reduction of nursing facility beds in an area that has a relatively high number of beds per thousand occupied by persons age 85 and over;
- d) the extent to which the project produces improvements in health; safety, including life safety code corrections; quality of life; and privacy of residents;
- e) the extent to which, under the current facility ownership and management, the provider has shown the ability to provide good quality of care based on health-related findings on certification surveys, quality indicator scores, and quality-of-life scores, including those from the Minnesota nursing home report card;
- f) the extent to which the project integrates the latest technology and design features in a way that improves the resident experience and improves the working environment for employees;
- g) the extent to which the sustainability of the nursing facility can be demonstrated based on the need for services in the area and the proposed financing of the project; and
- h) the extent to which the project provides or maintains access to nursing facility services needed in the community.

## Engineering Review of Moratorium Exception Project Submittals for Public Hearing

1. The emphasis is on the improvement of living conditions for the nursing home residents of the facility
  - a. Look at the existing living conditions such as adjacent bedrooms sharing the toilet room between, 2-bed rooms with side-by-side beds, confined bedroom and toilet space, lack of handicapped accessible toilet rooms.
  - b. Bathing facilities available to residents.
  - c. Look at convenient and large enough dining areas without requiring feeding shifts or eating in the bedrooms.
  - d. Look for adequate and appealing common spaces.
  - e. Look at existing kitchens and laundries and proposed improvements for better and more efficient food and laundry service, benefiting the staff and residents alike.
2. Compliance with construction type and story height.
3. Occupancy separations between health facilities and other occupancies.
4. Smoke barriers to provide areas of refuge (from smoke/fire) on each floor of a health facility.
5. Maximum allowable travel distances for fire safety and for resident care.
6. Rooms and spaces required by state and federal rules, such as PT/OT, central bathing.
7. A complying main entrance, reception, and lobby.
8. Complying elevators in multi-story health facilities.
9. No customary access outside of the licensed health facility.
10. Highlight the significant existing conditions and the proposed changes in the [Engineering Summary Review Form](https://www.health.state.mn.us/facilities/regulation/nursinghomes/docs/engsummary.pdf)  
[\(<https://www.health.state.mn.us/facilities/regulation/nursinghomes/docs/engsummary.pdf>\)](https://www.health.state.mn.us/facilities/regulation/nursinghomes/docs/engsummary.pdf)

## Application Instructions

The application materials, including instructions, format and necessary forms, are available at the [Nursing Home Moratorium Application Materials website](https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html) (<https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html>).

## Review and Approval of Proposals

Proposals will be reviewed by a committee composed of organizations that represent consumers and providers of nursing home services; persons who provide engineering, building construction, or design services; and state agencies involved in long-term care issues, housing, and finance. Applicants will have the opportunity to present their proposal **virtually**, to the Proposal Review Committee. The proposer will present their proposal in a 20-minute presentation, prior to the Committee submitting comments and recommendations to the commissioner.

Details on this virtual meeting, including date, time will be made available to the contact person listed in each moratorium exception proposal. The commissioner of health will approve or disapprove project proposals based on criteria established in law and rule. The commissioner will make the final decision no later than **April 10, 2024**.

## Questions Concerning the RFP

Any questions relating to the RFP process must be submitted by prospective applicants via email to: [health.nhm@state.mn.us](mailto:health.nhm@state.mn.us)

No answers will be provided in response to phone calls. Each question must cite the particular RFP page to which it refers. Copies of all questions and their answers will be provided to all prospective applicants who have requested application materials. Only responses in writing by staff of the Minnesota Department of Health will be considered official. The closing date for the receipt of questions will be **October 16, 2023**.

Technical assistance in completing the application forms is available from

- Jeff Bostic at LeadingAge of Minnesota at (651)-645-4545,
- Todd Bergstrom at Care Providers of Minnesota at (952)-854-2844 or
- the Department of Health (651)-201-4200.

## Procedures for Submitting Proposals

**No proposals submitted by mail or facsimile machine will be accepted.**

Completed proposals must be received no later than **4:30 p.m. on December 14, 2023**, via upload to the Minnesota Department of Health CloudDrive. To get access to the CloudDrive, send the contact name and email address of the individual to [health.nhm@state.mn.us](mailto:health.nhm@state.mn.us)

**Please note: we are expecting to receive a large number of proposals this round. If you miss the firm December 14, 2023 deadline, we will not be able to review your project. Amendments cannot be accepted after this deadline.**

## Exceptions to the Nursing Home Moratorium Application Instructions

The purpose of these instructions is to provide assistance in preparing an application for an exception to the nursing home moratorium in accordance with Minn. Stats. §§ 144A.071-.073 and Minnesota Rules, Parts 4655.1070 to 4655.1098, Procedures for Exceptions to Nursing Home Bed Moratorium.

**This process does not allow for the addition of new licensed or certified beds in the state. Beds may be relocated under this process, but not newly created.**

The Minnesota Department of Health (MDH) recommends that these application instructions, including the appendices, be reviewed **prior** to writing the application. The application instructions provide guidance regarding the content and format necessary to prepare a complete Exception to the Nursing Home Moratorium application. Please review the section Criteria for Review of Exceptions to the Nursing Home Moratorium Projects to make certain your project qualifies and that you submit all required information. See Appendix F for frequent Questions and Answers.

MDH requests that prospective applicants complete a Letter of Intent and email it to MDH by **October 16, 2023** (Use the form provided below). See [Appendix E](#) for the Exception to Moratorium Application Review Process Timeline.

## Completed Application Includes:

A complete application includes all information required on Items I through VII below and the information in the Criteria for Review shown below. All pages on the final application must be numbered.

### Face Sheet

Use the form provided below. Complete all items on the [Face Sheet](#) page in this packet.

### Project Information

Use the form provided below. Complete all items on the [Project Information](#) page in this packet.

### Engineering Summary Form

Complete the [Engineering Summary Review Form](#) (<https://www.health.state.mn.us/facilities/regulation/nursinghomes/docs/engsummary.pdf>) and submit it with your other application materials.



## Application Narrative

Please label pages as “Application Narrative” **and address each item described below completely**. Where a **description** is requested, please state details of specific methods, activities, etc. A **statement** that something is needed or will be done is not adequate.

**Problem Description:** Each proposal must include a description of a situation(s) or condition(s) that significantly contributes to the need for the proposed exception. Explain what the problem is, why it is a problem, and how the problem relates to any of the following:

- The extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults;
- The extent to which the project provides for the complete replacement of an outdated physical plant;
- The extent to which the project results in a reduction of nursing facility beds in an area that has a relatively high number of beds per thousand occupied by persons age 85 and over;
- The extent to which the project provides or maintains access to nursing facility services needed in the community;
- The extent to which the project produces improvements in health; safety, including life safety code corrections; quality of life; and privacy of resident. For example, the extent to which the project improves conditions that affect the comfort or quality of life of residents in a facility or the ability of the facility to provide efficient care, such as a relatively high number of residents in a room; inadequate lighting or ventilation; poor access to bathing or toilet facilities; a lack of available ancillary space for dining rooms, or rooms used for other activities; problems relating to heating, cooling, or energy efficiency; inefficient location of nursing stations; narrow corridors; or other provisions contained in the licensure and certification rules;
- The extent to which the project integrates the latest technology and design features in a way that improves the resident experience and improves the working environment for employees; and/or
- The extent to which, under the current facility ownership and management, the provider has shown the ability to provide good quality of care based on health-related findings on certification surveys, quality indicator scores, and quality-of-life scores, including those from the Minnesota nursing home report card.

### Proposed Project -- Overview

- Provide a concise overview of the proposed project, a brief statement describing what it is you want to do.
- Explain why the proposed project is the best solution to the identified problem. How will the desired accomplishment(s) alleviate or improve the situation(s) described in the problem statement(s)?
- The statute requires that all applications for exceptions to the nursing home moratorium submitted in response to Commissioner’s Request for Proposals must address renovation, relocation, replacement, conversion, upgrading, or addition as those terms are defined in Minn. Stat. § 144A.073, Subdivision 1 (see Appendix A1), and 144A.073, Subdivision 3c (b). No other proposals can be accepted.

NOTE: If you intend to request rate adjustments in phases for the proposed project, this must be CLEARLY stated in the proposal narrative portion of the application. The completed work must meet the definition of phased project in statute to qualify for a rate adjustment (see Minn. Stat. § 144A.073, Subdivision 1(g)). Applications that do not identify phases will not be allowed to have rate adjustments in phases when construction is completed.

**Assessment of Continued/Continuing Need:** Explain the extent to which the sustainability of the nursing facility can be demonstrated based on the need for services in the area and the proposed financing of the project:

- Identify the geographic area to be served.
- Identify the specific unmet need(s) as it relates to the problem statement(s). Note that this includes, but is not limited to, unavailable service and/or un-served or under-served populations, the elderly population in the service area, other services available in the area.
- Describe the continuing need for facility care in the community and adjacent communities.
- Provide the specific supporting data and describe the methodologies used to identify these needs.

**Information/Documents to Include in the Proposed Project:**

- Include an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation.
- Schematic drawings can be emailed with the proposal application. The schematic drawings must be prepared by a registered architect.
- Describe the environmental conditions in the facility that are reviewed under Minnesota Rules, Part 4655.1084, subpart 10, and any proposed changes in those conditions (see Appendix B).
- Include a cost estimate, prepared by a contractor or architect and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by Item D1 and D2, including costs of buildings, **attached** fixtures, construction site preparation, technology, and related soft costs, including: sales tax on materials; contractor's overhead and profit; architect and engineering fees; construction period interest; permits; zoning and construction financing; feasibility, economic, and demographic studies; legal, accounting, and consulting fees related to the creation of the development; and cost of designing the improvements (see Appendices D and G). **This cost estimate shall exclude land, land improvements and movable equipment.**
- **If the project request is for a phased project, include a breakdown of the total costs by phases.**
- **Include an estimated appraised value (both the URC and DCR) for the entire facility (existing and new) after the completion of the project, excluding all land, land improvements and movable equipment.**
- Include the effects of the proposed project on state share of MA costs for community-based services, nursing services, and housing in institutional and non-institutional settings. If the project meets the criteria for a consolidation provide this information for the facility being closed separately from the facility being replaced or upgraded.
- For proposals involving replacement of all or part of a facility, provide the property identification number and general description of the proposed location of a replacement facility.
- Provide an estimate of the cost of renovation as an alternative to replacement, or of replacement as an alternative to renovation. Briefly explain why the proposer chose replacement rather than renovation or renovation rather than replacement. NOTE: this data will not be used for rate setting purposes.
- Include an estimated beginning date of construction for renovation and replacements, and the proposed timetable for completion of construction. **If any portion of this project has already been completed or will be completed prior to the Public Presentation Meeting, identify the square footage amount, description or the completed portion, and the associated costs.**
- The proposal review process requires review of any licensure orders, certification deficiencies, substantiated complaints or sanctions issued during the 24 months prior to submission of the proposal. Include a statement concerning any of the aforementioned that are germane to this proposal and provide comment/clarification on others received in the 24-month period.

- Include the proposed relocation plan for current residents if beds are to be closed so that the Department of Human Services can estimate the total costs of a proposal.

**Additional Information:** Include all additional information that you believe provides evidence of the need for the proposed project (see [Criteria for Award](#) section below)

## Assurances and Agreements

Use the Assurances and Agreements form in this packet.

By signing and submitting the Assurances and Agreements pages, the applicant facility is making the assurances to the Minnesota Department of Health required in federal and state standards. These items need not be addressed in any other manner. Information requested in these assurances will not be required until after an application is approved. Provide **original** signature, title, and the date the form was signed.

## Cost Justification

See [Appendix D](#) and [Appendix G](#) for information on how to estimate costs.

## Questions Regarding Application Process

Any questions relating to the RFP process must be submitted by prospective applicants via email to: [health.nhm@state.mn.us](mailto:health.nhm@state.mn.us).

No answers will be provided in response to phone calls. Each question must cite the particular application page to which it refers. Copies of all questions and their answers will be provided to all prospective applicants who have requested Application materials. Only responses in writing by MDH staff will be considered official. The closing date for the receipt of questions will be **October 16, 2023**.

Technical assistance in completing the RFP application forms is available from

- Care Providers of Minnesota at (952) 854-2844, or
- LeadingAge of Minnesota at (651) 645-4545.

## Deadline

No proposals submitted by facsimile machine will be accepted.

Please upload the completed proposal **by 4:30 p.m. on December 14, 2023, to the MDH Cloud Drive.**

Note: To get upload access for your proposal, the applicant will need to send the contact name and email address of the individual who will be uploading the application to: [health.nhm@state.mn.us](mailto:health.nhm@state.mn.us).

Applications received after the deadline will not be reviewed.

## Letter of Intent to Submit Moratorium Exception Application

In order to assist us in planning for staff and Proposal Review Committee time necessary to review the moratorium applications received, MDH is requesting that any facility that is likely to submit an application **to please email this Letter of Intent by October 16, 2023**. The Letter of Intent does not obligate the facility to submit a moratorium application. It is being requested only to assist us in planning for reviews based on an anticipated number of applications.

Please email this Letter of Intent to: [health.nhm@state.mn.us](mailto:health.nhm@state.mn.us)

Your cooperation is sincerely appreciated.

Name of Facility: \_\_\_\_\_

Address of Facility: \_\_\_\_\_

Name and phone number of submitter: \_\_\_\_\_

Type of project anticipated (check all that apply):

- Renovation
- Replacement
- Conversion
- Upgrading
- Relocation
- Addition
- Consolidation
- Phased project

**MDH Use Only:**

**Control No.** \_\_\_\_\_

**Date and Time Received:** \_\_\_\_\_

## Face Sheet

### Applicant Facility (with which contract is to be executed)

Legal Name:

Facility Name (doing business as):

Address: \_\_\_\_\_

CMS Certification Number (CCN): \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

### Administrator/Director of Applicant Facility

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

### Fiscal Management Officer of Applicant Facility

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

### Contact Person for Information regarding Application Process

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## Corporate Operating Agency (if different from applicant facility)

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## Contact Person for Corporate/Operating Agency (if different from applicant facility)

Name/Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

## Bed Configuration and Layaway Beds

Fill in the tables below with the information about bed configurations and layaway beds at the facility before and after the project.

Definitions:

- A private room is a 1-bed room that has a toilet area that it does not share with an adjacent bedroom.
- 1-bed rooms are those where a bedroom shares access to a toilet room with an adjacent bedroom.
- 2-bed rooms are those where two beds are located within the same bedroom, whether or not there is a fixed partition separating the two beds (i.e. a “split double” room). A common toilet room is shared outside of partitioned bed areas within such bedrooms.
- 3- or 4-bed rooms are those where the given number of beds shares access to the corridor.

**Bed Configuration Table**

Bed Type Configuration	# Beds Before Project	# Beds After Project
Private		
1-Bed rooms		
2-bed rooms		

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Bed Type Configuration	# Beds Before Project	# Beds After Project
3-bed rooms		
4-bed rooms		
Total beds		

**Layaway Beds Table**

Bed Type Configuration	# Beds Before Project	# Beds After Project
Layaway		

**Attestation**

I certify that the knowledge contained herein is true and accurate to the best of my knowledge and that I submit this application on behalf of the applicant facility.

Signature of Director of Applicant Facility: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## Project Information

Facility Name:

City and County: \_\_\_\_\_

Project is for: (check all that apply)

- Conversion
- Relocation
- Renovation
- Replacement
- Upgrading
- Addition
- Consolidation
- Phased project

## Estimate Of Total Costs for Project

Excluding land, land improvements and moveable equipment: \_\_\_\_\_

Estimate Appraisal Value of the Entire Facility after the Project (Include both the undepreciated replacement cost (URC) and depreciated replacement cost (DRC) excluding land, land improvements and moveable equipment: \_\_\_\_\_

Service Area (City and County): \_\_\_\_\_

Social Security or MN TAX ID#: \_\_\_\_\_

### MDH Use Only:

Control No. \_\_\_\_\_

Date and Time Received: \_\_\_\_\_



## Assurances and Agreements

By Signature, the Authorized Official agrees and assures that:

1. Services will be provided in accordance with state and federal laws, rules, and policies.
2. The facility will provide services in keeping with program standards of the Minnesota Department of Health.
3. The proposer of a renovation, replacement, conversion, or upgrading that is approved by the Commissioner of Health will submit preliminary plans as defined in Minnesota Rules Part 4658.4010, before drawing final plans.
4. The agency will comply with all standards relating to fiscal accountability that apply to the Minnesota Departments of Health and Human Services.
  - a. Budget revisions with justification(s) will be submitted to the Commissioner of Health for prior approval:
    - i. When there are changes in approved projects for renovation, replacement, relocation, conversion, or upgrading that alter the methods or materials described in the final working drawings. The budget revisions (and justifications) must be submitted to the commissioner for review and approval before the changes are made, according to the Minnesota Rules, part 4658.4025.
    - ii. If the commissioner approved the reported changes in a project, a change order permitting the changes will be issued. The issuance of a change order does not alter the allowable costs as estimated in Minnesota Rules, part 4655.1084.
    - iii. If there are cost overruns. The proposer will immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.
    - iv. Upon completion of the proposed project and prior to final clearance for use. The proposer will submit to the Commissioner of Health, with a copy to the Commissioner of Human Services, a final statement of costs as directed by Minn. Stat. § 144A.071, Subdivision 2.
  - b. Project financial management systems will provide for:
    - i. Accurate, current, and complete disclosure of the financial status of the project;
    - ii. Effective control over the accountability for all funds, property, and other assets. Project applicants are to adequately safeguard such assets and assure that they are used solely for authorized purposes;
    - iii. Comparison of actual obligations with budget amounts for each activity;
    - iv. Accounting records that are supported by source documentation; and
    - v. Audits which will be made by or at the direction of the Minnesota Department of Human Services.

Application is hereby made for approval of an exception to the nursing home moratorium. By signature, the Authorized Official agrees and **has the authority to agree** to comply with conditions and reporting requirements, consistent with applicable Minnesota Department of Health Rules and Minnesota Statutes. In addition, by signature below, the Authorized Official assures full compliance with all items stated herein.

**Signature of Authorized Official:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Criteria for Review of Exceptions to the Nursing Home Moratorium Projects

Application is in accordance with Minn. Stat. § 144A.073, Subdivision 3 and Minnesota Rules, Parts 4655.1070 to 4655.1098.

1. Applicant is a nursing home, certified boarding care home, or attached hospital.
2. Proposal was received by the Commissioner of Health before the deadline.
3. Proposal meets the definition of:
  - a. Renovation
  - b. Replacement
  - c. Conversion
  - d. Upgrading
  - e. Relocation
  - f. Addition
  - g. Consolidation
  - h. Phased project

**IF AN APPLICATION DOES NOT MEET THE ABOVE REQUIREMENTS,  
IT WILL RECEIVE NO FURTHER REVIEW**

Application must meet the following procedural requirements. Use this as checklist to assure your application contains all required information.

1. All pages are numbered.
2. Submitted with required content:
  - a. Completed Face Sheet and Project Information Forms.
  - b. Problem description.
  - c. Proposed project.
  - d. Assessment of continued/continuing need.
  - e. Includes schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation.
  - f. Includes a cost estimate, prepared by a contractor or architect and other participants in the development of the proposal, for the project described by the drawings and outline of specifications required by Item 5 above, including costs of buildings, attached fixtures, construction site preparation, and related soft costs.
  - g. Include an estimated appraised value (URC and DRC) for the entire facility (existing and new) after the completion of the project, excluding all land, land improvements and movable equipment.
  - h. Include the effects of the proposed project on state share of MA costs for community-based services, nursing services, and housing in institutional and non-institutional settings separately for each the facilities involved.
  - i. States the current cost of real estate taxes and special assessments for the facility and an estimate of those that would be assessed if the proposal were implemented.
  - j. States any changes in annual operating costs resulting from this proposal.
  - k. Describes the environmental conditions in the facility that are reviewed under Minnesota Rules, Part 4655.1084, subpart 10, and any proposed changes in those conditions.

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- l. For proposals involving replacement of all or part of a facility, provides the property identification number and general description of the proposed location of a replacement facility.
- m. Provides an estimate of the costs of renovation as an alternative to replacement, or of replacement as an alternative to renovation.
- n. Includes an estimated beginning date of construction for renovations and replacements and the proposed timetable for completion of construction.
- o. Briefly explains why the proposer chose replacement rather than renovation or renovation rather than replacement.
- p. Includes a statement concerning any licensure or certification orders, deficiencies, or substantiated complaints or sanctions during the 24 months prior to the submission of the proposal.
- q. Proposed relocation plan for residents, if applicable.
- r. If applicable, clearly stating intent to request rate adjustments in phases.

## Criteria for Award

1. Procedural requirements for application are met (see Section II of Criteria for Review of Exception to the Nursing Home Moratorium Project).
2. The extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults.
3. The extent to which the project provides for the complete replacement of an outdated physical plant.
4. The proposal's long-term effects on state costs, including the cost estimate of the project according to Minn. Stat. §144A.071, Subdivision 5a.
5. The extent to which the project results in a reduction of nursing facility beds in an area that has a relatively high number of beds per thousand occupied by persons age 85 and over, using data published according to requirements in Minn. Stat. § 144A.351. Please see report entitled: "May 2023 beds per 1000, Age 65 years and over and 85 years and over, by individual counties and contiguous groups." This report is available at the [Nursing Home Moratorium Application website \(https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html\)](https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html).
6. The extent to which the project produces improvements in health, safety, including life-safety-code corrections, quality of life, and privacy of residents.
7. The extent to which, under the current facility ownership and management, the provider has shown the ability to provide good quality of care based on health-related findings, as evidenced by the two most recent state agency certification surveys and any substantiated complaints within the past 24 months and the provider's response to those surveys and complaints; quality indicator scores; and quality-of-life scores, including those from the Minnesota nursing home report card.
8. The extent to which the project integrates the latest technology and design features in a way that improves the resident's experience and improves the working environment for employees.
9. The extent to which the sustainability of the nursing facility can be demonstrated based on the need for services in the area and the proposed financing of the project.
10. The extent to which the project provides or maintains access to nursing facility services in the community.

## Appendices/Informational Links

- Appendix A: [Minn. Stat. § 144A.071.](#)  
[Moratorium on Certification of Nursing Home Beds](#)  
<https://www.revisor.mn.gov/statutes/?id=144A.071>
- Appendix A1: [Minn. Stat. § 144A.073.](#)  
[Exceptions to the Moratorium Review](#) (<https://www.revisor.mn.gov/statutes/?id=144A.073>)
- Appendix B: [Minnesota Rules, Parts 4655.1070 to 4655.1098.](#)  
[\(Procedures for Exceptions to Nursing Home Bed Moratorium](#)  
<https://www.revisor.mn.gov/rules/?id=4655>)  
 (Scroll down to “Procedures for Exceptions for Nursing Home Bed Moratorium” and print parts 4655.1070 to .1098.)
- Appendix C: [Minnesota Rules, Parts 4658.2000 to 4658.5590.](#)  
[\(Physical Plant Rules for Licensed Nursing Homes:](#)  
<https://www.revisor.mn.gov/rules/?id=4658>)  
 (Scroll down to “Specialized Units” and continue through all physical plant requirements to the bottom of the page. Print all parts 4658.200 to .5590.)
- Appendix C1: [Minnesota Rules, Parts 4658.2000 to 4658.5590.](#)  
[\(Physical Plant Rules for Licensed Nursing Homes](#)  
<https://www.health.state.mn.us/facilities/regulation/nursinghomes/docs/moratoriumappendixc1.pdf>)
- Appendix D: [RFP Cost Estimate Guidelines/Methodology for the Nursing Home Moratorium Exceptions Process](#)
- Appendix E: [Exception to the Moratorium Application Review Process and Timeline](#)
- Appendix F: [Questions & Answers on the Competitive Moratorium Exceptions Process](#)
- Appendix G: [Cost Analysis Questions and Answers on the Competitive Moratorium Exceptions Process](#)
- Appendix H: [Beds per 1000 for populations over 65 and 85, by County and Contiguous County Groups \(May 2023](#) (<https://www.health.state.mn.us/facilities/regulation/nursinghomes/docs/beds.pdf>)

## Appendix D: Cost Estimate Guidelines/Methodology for the Nursing Home Moratorium Exceptions Process

### REPLACEMENT, REMODELING, AND BED TRANSFER PROPOSALS

- Method for estimating Proposal Cost:
- Use method in [Minnesota Statute § 256R.26](#) (<https://www.revisor.mn.gov/statutes/cite/256R.26>) for rate setting principles. The estimated cost to the state of approved projects is based on the Fair Rental Value (FRV) formula at the time of approval and the estimated URC and DRC from the application. The final FRV

property rate will be based on the actual appraisal (conducted by state contractor) after construction and the current FRV formula at the time of project completion. However, the allowable URC and DRC at project completion is the lessor of the actual appraisal value or 105% of the allowable URC and DRC at the time the application is approved by the state.

- For Proposal Costs, the proposer shall:
  - Estimate construction cost of project showing amounts for building(s) and fixed equipment.
  - Indicate number of beds being relocated and where they are being relocated from, number of beds being delicensed or relicensed from layaway, and total number of beds and bed configuration after project completion in format similar to the bed configuration on the Minnesota Statistical and Cost Report; and
  - Anticipated public grants or insurance proceeds.
  - Estimated savings due to closing a facility as part of a consolidation project.
- Estimate change in real estate taxes as a result of this proposal.
- Estimate change in annual operating costs as a result of this proposal.
- Include an estimated appraised value (URC and DRC) for the entire facility (existing and new) after the completion of the project, excluding all land, land improvements and movable equipment.

## Appendix E: Exception to Moratorium Application Review Process Timeline

### July 17, 2023

Request for Proposals for Moratorium Exceptions Projects published in the *State Register*.

### October 16, 2023

Email Letter of Intent and any written questions concerning the moratorium application process to Minnesota Department of Health.

### December 14, 2023

Applications materials must be received via upload to the Minnesota Department of Health CloudDrive.

### December 14, 2023

Technical staff review by MDH/DHS staff to determine application compliance.

### Week of December 18, 2023, to January 19, 2024

Completed applications reviewed for technical merit, staff data collection and determination of state share costs.

### January 22, 2024

Completed staff review summary and collected data sent to Proposal Review Committee via email.

## February 13 and 14, 2024 - Virtual Public Presentation Meeting

Applicants present proposal and address questions from the Proposal Review Committee. The Proposal Review Committee meets virtual, after the presentations, in a non-public meeting to discuss proposals and develops and submits its recommendations and rankings to the commissioner of health. Information on this Virtual Public Presentation Meeting will be emailed to the contact person in each application by January 12, 2024.

## No later than February 27, 2024

The Commissioner of Health shall receive from the Proposal Review Committee a written recommendation for approval or rejection of each proposal based on the evaluation, comparison and ranking of all completed proposals.

## No later than March 27, 2024

The Commissioner of Health shall decide to approve or disapprove each proposal.

## No later than April 10, 2024

The Commissioner of Health shall send a written notice via email of the decisions to approve or disapprove each proposal to the respective applicants with a statement of reasons for the decisions.

## Appendix F: Questions and Answers on the Competitive Moratorium Exceptions Process

Minn. Stat. § 144.073 defines the competitive moratorium exceptions process authorized under Minn. Stat. § 144A.071, Subdivision 4a(c) and implemented in Minnesota Rules, Parts 4655.1070 to 4655.1098. This is technical information and we have tried to distill some of the more common questions or issues for you here, in more or less ordinary English.

### **1. What is the required construction substantial completion date (or certificate of occupancy) for a project that is awarded monies from the 2023 exception process?**

Commence construction within 18 months.

### **2. If an Owner elects to decline the monies awarded for one of the projects, how long does the owner have to make that decision without penalties?**

The owner has 18 months to commence construction, see [144A.071, subdivision 1a](#), paragraph (d).

### **3. How recent should facility appraisals be for the applications? These are the appraisals that would be included for cost justification.**

Applicants are required to provide an estimated value for the entire facility after completion of the project. There is not an appraisal requirement for the application. The estimated appraisal value is an important limiting factor in the final reimbursement for an approved project. Supporting documentation is requested to

ensure the applicant has made reasonable assumptions about value but not as a requirement that an actual appraisal be completed.

**4. How recent should marketing studies be for the applications? These are the studies that would be included in the assessment of continued/continuing need.**

There is no requirement that a marketing study be conducted. The applicant must respond thoroughly to all of the criteria for review in subd. 4a. The applicant is making its case for investment in a project that is needed and sustainable. It is important for the review committee to know that the applicant has done its due diligence in planning the project – is there a need, how much of a need, how long will the need be and how might that need change based on demographics, etc. How the applicant provides this information in its application is a decision the nursing facility makes; however, the information must adequately and appropriately support assessment of current and future need (3) (7) (8).

**5. Is there any additional weight given for projects that include design elements that help support infectious disease control, such as during a pandemic? These would be design elements that go beyond baseline code requirements.**

There is an opportunity to articulate the extent to which the applicant has researched its proposal and is willing to invest in state-of-the-art equipment and design that might exceed baseline code requirements to further enhance the quality of life for residents and working conditions for staff (4) (6). While all criteria are to be given equal weight in the decision-making process, highlighting innovation in technology or design features that are not reflected in current code requirements might distinguish the project from other proposals.

**4. We have a question in regards to the moratorium exception applications for projects that are awarded and then progress into full design and construction. For the schematic design drawings submitted in the applications, are some design changes expected when the design progresses into a project as long as the scope of work remains the same? As an example, if the moratorium exception application drawings show a new resident activity kitchen on the west side of a resident lounge – and in the final design the kitchen is located at the east side of that lounge – is that acceptable? This is assuming that all codes are met, this is just a question about level of design changes expected after a moratorium exception application is submitted.**

MS 144A.073 allows for amendments to approved projects, following specific criteria, which is shown below. Keep in mind that for facilities with moratorium projects approved under Fair Rental Value (FRV), actual project costs do not directly affect the reimbursement.

*Project design amendments cannot be approved if it results in a decrease in project costs from the amount specified in the original proposal previously approved under the competitive application process.*

*(a) Nursing facilities that have received approval on or after July 1, 1993, for exceptions to the moratorium on nursing homes through the process described in this section may request amendments to the designs of the projects by writing the commissioner within 15 months of receiving approval. Applicants shall submit supporting materials that demonstrate how the amended projects meet the criteria described in paragraph (b).*



- (b) *The commissioner shall approve requests for amendments for projects approved according to the following criteria:*
- (1) *the amended project designs must provide solutions to all of the problems addressed by the original application that are at least as effective as the original solutions;*
  - (2) *the amended project designs may not reduce the space in each resident's living area or in the total amount of common space devoted to resident and family uses by more than five percent;*
  - (3) *the costs of amended project designs shall be the cost estimate associated with the project as originally approved, t, except under conditions described in clause (4); and*
  - (4) *total costs of the amendment are no greater than ten percent of the cost estimate associated with the project as initially approved if the proposer can document that one of the following circumstances is true:*
    - (i) *changes are needed due to a natural disaster;*
    - (ii) *conditions that affect the safety or durability of the project that could not have reasonably been known prior to approval are discovered;*
    - (iii) *state or federal law require changes in project design; or*
    - (iv) *documentable circumstances occur that are beyond the control of the owner and require changes in the design.*
- (c) *Approval of a request for an amendment does not alter the expiration of approval of the project according to subdivision 3.*
- (d) *Reimbursement for amendments to approved projects is independent of the actual construction costs and based on the allowable appraised value of the completed project. An approved project may not be amended to reduce the scope of an approved project.*
- 5. The Application Narrative section says to “describe the environmental conditions in the facility that are reviewed under Minnesota Rules, Part 4655.1084, subpart 10, and any proposed changes in those conditions. 4655.1084, subpart 10, item D requires that the “method and materials of construction ... shall be compared with the standards for Group D occupancy in the State Building Code.” Can you please clarify what occupancy group should be used for comparison?**

The nursing home must meet the requirements for Group 1-2 occupancy in accordance with the Minnesota State Building Codes.

**6. What is the level of detail required for the outline of specifications?**

An outline of specifications is a general description of the major systems and material choices to communicate the appearance and function of the building. Usually, it is a general outline or bullet point list.

**7. What is the level of detail required for the schematic drawings?**

These requirements are commonly known in the architectural world and the architect you hire will know exactly what is needed for MDH review.

**8. Who can I call at the State with questions I have on this application process?**

Any questions relating to the RFP process must be submitted in writing to: [health.nhm@state.mn.us](mailto:health.nhm@state.mn.us). By accepting only written questions, we can assure that the answer to any question we receive is included in the Question-and-Answer mailings to prospective applicants, so that they have access to the same information. Answers to the questions will be posted in Appendix F.

**Project Definitions****1. If a project is not selected in this round of applications, is it automatically eligible for future consideration in other rounds?**

Not automatically. Such projects must be re-submitted with costs and design updated as necessary. Facilities may apply for exceptions in each RFP round regardless of their successes or failures in previous rounds.

**2. If a project can be divided into several parts or phases, do they all have to be part of one proposal? Can they be submitted as separate proposals?**

Generally, the proposals can be structured in whatever way is most advantageous to the facility. It is permissible to divide a project into distinct phases. Each phase must be able to be cleared by MDH for occupancy. Without such clearance, there is no phase and no rate adjustment for a phase.

If a project is not identified in a proposal as being completed in distinct phases, rate adjustments will not be implemented in phases as each part of a project is completed; the rate adjustment would not be granted until after all phases are completed.

**3. Can rooms be moved within a nursing facility outside of the competitive exceptions process?**

Yes, assuming that MDH approves the preliminary drawings and that the project meets other applicable regulations (for example, those in Minnesota Statutes Chapter 144A and Minnesota Rules, Chapter 4658). Under Minn. Stat. § 144A.071, Subdivision 4a(b), beds can be moved within a facility provided that the total costs of associated remodeling do not exceed the maximum threshold. A facility may not seek reimbursement beyond the maximum threshold except through the Moratorium Exception Process.

**4. Are furniture or other movable equipment included in the moratorium costs?**

No. Moveable equipment, such as furniture, and technology that is not an attached component of the building are NOT considered cost items for the purpose of this exceptions process.

**5. Do current buildings have to be demolished if they will no longer be used for nursing care?**

No. Many successful proposals in the past have developed other uses for these older buildings. The key as to whether the old building may continue to be reimbursable under the reimbursement rule is whether it is necessary, will continue to be used in a manner directly related to resident care.

**6. What are “community alternatives”?**

“Community alternatives” include every possible setting EXCEPT for hospitals and nursing homes. It includes certified boarding care homes, uncertified boarding care homes, board and lodgings, board and lodgings with special services, supervised living facilities, housing with services establishments, assisted living, adult foster care, adult day care, and home care.

**7. Will the Commissioner of Health be using any additional information besides the most recent Distribution of Beds study regarding where beds are distributed?**

In accordance with Minn. Stat. §144A.073, Subdivision 4(3), the Commissioner will be using the most recent analysis, which is available in the report entitled, “May 2023 Beds per 1000, Age 65 years and over and 85 years and over, by individual counties and contiguous groups.” This report is available on the [Nursing Home Moratorium Application website](https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html) (<https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html>).

**8. Are any of the approval criterion considered more important than the others?**

Each of the approval criterion is given equal importance.

**9. Do I need to attach a copy of my most recent survey form to the application?**

No. MDH has that information and will provide it to the Proposal Review Committee and the commissioner. You will want to consider the results of that survey, though, in developing your proposal. For example, if you had a deficiency last year based on physical plant conditions, and those conditions are not addressed in your proposal, the Proposal Review Committee and the commissioner will question why they were not addressed.

**10. Applicants must fill out a problem statement as part of the application packet. Will surveyors use that problem statement to look for deficiencies at our next survey?**

No. Surveyors are probably already aware of the conditions at your facility that you are looking to improve by doing a moratorium exceptions project.

**11. Can a nursing home submit a project for the current moratorium exception round even though the project has started?**

A facility may submit a project proposal that is underway and not yet completed. Applicants must identify in their application the portion of the project that is already complete. However, the submission of an application for a partially complete project does not guarantee approval as the process is competitive. Proposals for projects already complete will not be considered.

- 12. We are working with a client that is just starting to consider a possible moratorium exception application and likely will not make the decision prior to when the Letter of Intent (LOI) is due. Should the facility file a LOI by the due date if a decision has not been made? Is the facility penalized if it chooses not to submit a proposal, but a LOI was sent? And, vice versa, if a facility does not file a LOI but then decides to submit is there a penalty?**

MDH has asked for LOIs for purposes of getting a sense of the potential number of applicants so we can accordingly plan for staff. There is no penalty for sending an LOI and not submitting an application or submitting an application and not send an LOI. We prefer that you err on the side of submission. It is better to plan for 15 applications and receive five than to plan for five and receive 15.

- 13. If a facility can apply to move some of its beds to a new site in the same or different that is not certified, would this be considered a replacement or a relocation facility?**

This would be considered a new facility and would require a new certification from CMS. It could be submitted as a moratorium exception proposal as a replacement facility. The facility is strongly advised to consult DHS reimbursement staff while researching the proposal cost estimates. The facility would also need to be cognizant of the requirements for new certification by the Centers for Medicare and Medicaid Services.

- 14. The RFP/application for Exception to the Nursing Home Moratorium is only for allowing additional beds to be added to a nursing home, correct?**

No. The moratorium prohibits additional licensure of beds to the overall system capacity. The only way that additional licensed beds could be added to the system capacity would be through specific legislation permitting this. A nursing home may acquire additional beds to add to an existing facility as part of a moratorium exception project, but it would need to acquire those from some other facility. Bed relocation always requires pre-approval from MDH and is done either via a threshold construction project or moratorium exception project. See: [MS 144A.073, Subdivision 3 \(c\) \(https://www.revisor.mn.gov/statutes/?id=144A.073\)](https://www.revisor.mn.gov/statutes/?id=144A.073)

## Physical Plant

- 1. Many of the regulations that are cited in the competitive exceptions process rule refer to the standards for new construction. How should these be applied to proposals for renovations, conversions, or upgrades?**

Minnesota Rules Part 4658.3005, subpart 2, states that “compliance with the standards for new construction for existing facilities must be for the areas involved and to the extent that the existing structure will permit.” Proposals will be reviewed on an individual basis to determine to what extent this will be required, but you should aim at new construction standards if possible.

- 2. How detailed should the preliminary drawings submitted with the applications be?**

The preliminary drawings should be as complete as needed to give you and the reviewers adequate information to make a decision about the proposal. This will depend to some extent on the type and scale of the project. However, the rule requires that the drawings be prepared by a registered architect, and it is recommended that these drawings be done to scale. It is generally in your interest to make your drawings as clear and complete as possible to describe your proposal accurately.

**3. How important is it that the blueprints we submit are readable?**

The MDH Engineering Section only needs to be able to read the areas affected by your proposed project, or the areas that are the basis for your project. Those areas, and the measurements for those areas, must be readable. Blueprints for other areas of the facility do not need to be as clear.

**4. When replacements or additions are made (involving the construction of new physical plant), do these projects have to conform to the regulations governing new construction in all respects?**

Generally, yes. The new wings or new buildings will be required to comply with the standards for new construction.

**5. In a proposed project, is it mandatory to place a nursing station on each floor? Does it have to be within 120 feet of all rooms, e.g., if a minor change is made to a couple remote rooms?**

If the project upgrades a physical plant to nursing home standards, or builds a new wing on a nursing home, replaces a facility, or extensively remodels a nursing home, it is necessary to have a nursing station on each floor. If beds are currently licensed at the Boarding Care level, and will remain so, it is not necessary to build a new nursing station. Minnesota Rules, Part 4658.4105 states:

*Subp. 8. Distance from nurse's station. Bedrooms must be located not more than 140 feet from the nurse's station.*

**6. For projects involving waived features, will it be possible to construct rooms or structures that will also require waivers?**

Generally, no. New elements constructed as part of a project must meet new construction standards, i.e., cannot require waivers. If some elements of the room(s) are now waived, and are not changed due to the project, it will generally be possible to maintain the waiver if it would have been maintained in any case.

**7. Do projects that do not construct facility replacements or additions involving bedrooms must comply with the single room requirement?**

No. As long as the rooms in the old facility are only remodeled as part of a project, it is not required that the facility provide the five percent single rooms. This assumes that no new beds are added and that the facility's renovations do not involve adding new structures

**8. What do I do about conflicts between the State Building Code and local building codes?**

If those conflicts are identified early in the application process, the MDH Engineering Section and the MN Department of Labor and Industry building code staff can review the conflicts and generally reach a compromise. Contact Greg Metz, MN Dept. of Labor and Industry, 651-284-5884 or [greg.metz@state.mn.us](mailto:greg.metz@state.mn.us).

**9. In a new wing or building, how many single rooms are required?**

At least five percent of the rooms in a new wing or building must be single rooms with private toilet rooms (see Minnesota Rules, Part 4658.4100). If extensive remodeling is part of the project, it is recommended that the five percent applies to remodeled areas as well.

## Appendix G: Cost Analysis Questions and Answers on the Competitive Moratorium Exceptions Process

**1. Should cost estimates reflect expected inflation?**

No. Costs for either property or changes in operating costs should be projected in terms of current dollars, irrespective of projected inflation.

**2. If a facility has more or less MA residents, and therefore more or less MA funding, how will that affect its final ranking? Is there an advantage to facilities with low MA proportions?**

The impact on MA cost is one criterion for evaluating proposals. However, the proposals will all have to be evaluated by the other criteria as well. Therefore, even though the low MA cost of a proposal is an advantage, it does not by itself guarantee selection, nor does high MA cost guarantee rejection.

**3. How many proposals can be funded?**

This cannot be determined in advance. The number eventually selected will depend on the characteristics and quality of the proposals actually received.

**4. Where are the costs for completing the moratorium exception application to be reported (architects, attorneys, etc.)?**

When determining the cost of the facility's project, these costs will be capitalized and included as soft costs when determining the cost of the building project to meet the minimum cost requirement for moratorium applications.

If a facility's moratorium exception project is approved, these costs will NOT be used to determine their building project rate adjustment. Rate adjustments will be based upon an appraised valuation.

**5. What additional information will facilities that are transferring or de-licensing beds need to supply for purposes of calculating the community alternative savings estimate?**

The following information will need to be supplied:

- The number of beds to be transferred and/or de-licensed.
- The facility's historic community placement level for the last quarter. If a full year's worth of placement is a better representation, that information may be supplied.
- The facility's estimate of additional community placements.
- If the transferring facility is below 96% occupancy, estimated annual leave days.

Information regarding the facility occupancy percentage, MA occupancy, total resident days, weighted average operating rate, number of licensed beds, and average number of resident days will be taken from the facility's cost report.

**6. How do I allocate costs on my application, since I have a combined project (for example, nursing home renovations and adding an assisted living unit)? Do I have a contractor divide out the costs?**

For purposes of the application, DHS just needs the nursing home costs. Your contractor can be instrumental in determining these allocations. You should explain in your proposal how you allocated the costs of the two parts of the project and any shared area(s).

**7. What are the URC and DRC and how do they affect the approval of my proposed project?**

"Undepreciated replacement cost" or "URC" means the undepreciated replacement cost determined by the appraisal for building and fixed equipment using the commercial valuation system and appraisal firm.

"Depreciated replacement cost" or "DRC" means the depreciated replacement cost determined by an appraisal using the commercial valuation system selected by the commissioner. DRC excludes costs related to parking structures.

Moratorium projects are being approved for reimbursement under section 256R.26 which is a Fair Rental Value (FRV) formula. Final reimbursement for the completed project will be based upon the actual appraised value of the building (by a state-contracted appraiser), subject to the formula limitations in effect at the time. While this amount cannot be known exactly at the time of approval the State will apply the FRV formula to the approved final building valuation to estimate the State share of the program.

Final approved projects reimbursement are subject to the lesser of the final appraised limited building valuation DRC or 105% of that approved amount from the moratorium application.

The actual project costs do not affect the FRV calculation directly, but the DRC limitation is designed to allow for reimbursement of only the approved project.

**Questions about moratorium cost analysis should be directed to Jane Gottwald at DHS via email at [jane.gottwald@state.mn.us](mailto:jane.gottwald@state.mn.us).**