

**Application Materials**

**July 2008**

**MINNESOTA STATUTES, §144A.073  
EXCEPTION TO THE  
NURSING HOME MORATORIUM**

**US Mail:**

**Minnesota Department of Health  
Division of Compliance Monitoring  
P.O. Box 64900  
St. Paul, Minnesota 55164-0900**

**Courier:**

**Minnesota Department of Health  
Division of Compliance Monitoring  
85 East 7<sup>th</sup> Place, Room 220  
St. Paul, MN 55101**

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## APPENDICES

- Appendix A *Minnesota Statutes 2006* 144A.071, Moratorium on Certification of Nursing Home Beds <http://www.revisor.leg.state.mn.us/statutes/?id=144A.071>
- Appendix A1 *Minnesota Session Laws 2008*, Chapter 230, amendments to 144A.073, Exceptions to the Moratorium Review, <http://www.health.state.mn.us/divs/fpc/appendixA12008.pdf>
- Appendix B *Minnesota Rules*, Parts 4655.1070 to 4655.1098, Procedures for Exceptions to Nursing Home Bed Moratorium <http://www.revisor.leg.state.mn.us/rules/?id=4655>  
- Scroll down to Nursing Home and 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 <http://www.revisor.leg.state.mn.us/rules/?id=4658>  
- Scroll down to Specialized Units and continue through all physical plant requirements and end at Part .5590. Print all parts.
- Appendix C1 *Minnesota Rules*, Parts 4658.2000 to 4658.5590, Physical Plant Rules for Licensed Nursing Homes SCHEMATIC DRAWINGS (PDF:88KB/3 pages.) **See Schematic Drawings file located on the MDH web page below the RFP file. Open and print with Adobe Reader** <http://www.health.state.mn.us/divs/fpc/moratoriumapp08.html>
- 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 and Answers on the Competitive Moratorium Exceptions Process
- Appendix G Cost Analysis Questions and Answers on the Competitive Moratorium Exceptions Process

For publishing in *State Register* on July 14, 2008

## MINNESOTA DEPARTMENT OF HEALTH 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 *Minnesota Statutes* 144A.073. The commissioner of health, in coordination with the Commissioner of Human Services, may approve such requests under conditions listed in *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 complete 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, that 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.

### 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 \$1,478,037. Depending upon the outcome of this round of moratorium exceptions, a second round of moratorium exception proposals may be announced after July 1, 2009.

**NOTE: As of 10-01-08, *Minnesota Statutes* 256B.434, subd. 4f allows projects with costs less than \$1,400,482 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 in evaluating proposals for approval or disapproval for estimating the cost of a proposal is detailed in the application materials.

## **Criteria for Review**

*Minnesota Statutes* 144A.073, subd. 4, states the criteria the Commissioner of Health is to consider in reviewing moratorium exception proposals:

Subd. 4. **Criteria for review.** The following criteria shall be used in a consistent manner to compare, evaluate, and rank all proposals submitted. Except for the criteria specified in clause (3), the application of criteria listed under this subdivision shall not reflect any distinction based on the geographic location of the proposed project:

(1) the extent to which the proposal furthers state long-term care goals, including the goal of enhancing the availability and use of alternative care services and the goal of reducing the number of long-term care resident rooms with more than two beds;

(2) the proposal's long-term effects on state costs including the cost estimate of the project according to section [144A.071](#), subdivision 5a;

(3) the extent to which the proposal promotes equitable access to long-term care services in nursing homes through redistribution of the nursing home bed supply, as measured by the number of beds relative to the population 85 or older, using data published according to requirements in section 144A.351;

(4) the extent to which the project improves conditions that affect the health or safety of residents, such as narrow corridors, narrow door frames, unenclosed fire exits, and wood frame construction, and similar provisions contained in fire and life safety codes and licensure and certification rules;

(5) 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, day rooms, or rooms used for other activities; problems relating to heating, cooling, or energy efficiency; inefficient location of nursing stations; or other provisions contained in the licensure and certification rules;

(6) the extent to which the applicant demonstrates the delivery of quality care, as defined in state and federal statutes and rules, to residents as evidenced by the two most recent state agency certification surveys and the applicants' response to those surveys;

(7) the extent to which the project removes the need for waivers or variances previously granted by either the licensing agency, certifying agency, fire marshal, or local government entity;

(8) the extent to which the project increases the number of private or single bed rooms;

(9) the extent to which the applicant demonstrates the continuing need for nursing facility care in the community and adjacent communities; and

(10) other factors that may be developed in permanent rule by the commissioner of health that evaluate and assess how the proposed project will further promote or protect the health, safety, comfort, treatment, or well-being of the facility's residents.

### **Priority for Approval**

Minnesota Laws 2007, Chapter 147, Article 19, Section 3, subd. 8, clause (c), directs that priority shall be given to proposals that entail:

- (1) complete building replacement in conjunction with reductions in the number of beds in a county, with greater weight given to projects in counties with a greater than average number of beds per 1,000 elderly;
- (2) technology improvements;
- (3) improvements in life safety;
- (4) construction of nursing facilities that are part of senior services campuses; and
- (5) improvements in the work environment.

## **Procedure for Receiving Application Materials**

The application materials, including instructions, format and necessary forms, are available at the following website  
<http://www.health.state.mn.us/divs/fpc/moratoriumapp0.html> or upon e-mail, written or facsimile request to:

Mary Cahill	Phone: (651) 201-3701
MDH – Division of Compliance Monitoring	Fax: (651) 215-9695
U.S. Mail Service:	<i>mary.cahill@state.mn.us</i>
MDH – Division of Compliance Monitoring	
P.O. Box 64900	
St. Paul, Minnesota 55164-0900	

## **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, in person, to the Proposal Review Committee (Committee) prior to the Committee submitting comments and recommendations to the commissioner. Details on this meeting, including date, time and location 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 16, 2009.

## **Questions Concerning the RFP**

Any questions relating to the RFP process must be submitted by prospective applicants in writing via Fax, US mail or e-mail to

Mary Cahill  
Minnesota Department of Health  
Division of Compliance Monitoring  
P.O. Box 64900  
St. Paul, MN 55164-0900  
Fax: (651) 215-9695  
*mary.cahill@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 Friday, October 17, 2008.

Technical assistance in completing the application forms is available from the Minnesota Health and Housing Alliance, at (651) 645-4545, or Care Providers of Minnesota at (952) 854-2844.

## **Procedures for Submitting Proposals**

No proposals submitted by facsimile machine will be accepted. **Six (6) written copies of the completed proposal must be received no later than 4:00 p.m. on Thursday, December 11, 2008 by:**

Darcy Miner  
U.S. Mail Service:  
Minnesota Department of Health  
Division of Compliance Monitoring  
P.O. Box 64900  
St. Paul, Minnesota 55164-0900

Darcy Miner  
Courier or Walk-In-Service  
Minnesota Department of Health  
Division of Compliance Monitoring  
85 East Seventh Place, Room 220  
St. Paul, Minnesota 55101

## **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 *Minnesota Statutes* (2007), Sections 144A.071 – 144A.073, and *Rules of Minnesota*, Parts 4655.1070 to 4655.1098, Procedures for Exceptions to Nursing Home Bed Moratorium.

### **THIS PROCESS DOES NOT ALLOW FOR THE ADDITION OF LICENSED OR CERTIFIED BEDS IN ANY FACILITY.**

These instructions pertain only to exceptions that require review by the Commissioner of Health. **For this exception to the moratorium process, *Minnesota Statutes*, §256B.434, subd. 4f allows projects with costs less than \$1,400,482 to proceed without applying for an exception under this process.**

It is suggested that these Application Instructions, including the appendices, be reviewed prior to writing the application. This will 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.

\*\* The Minnesota Department of Health (MDH) requests that prospective applicants complete a Letter of Intent and submit it to MDH by October 17, 2008. (Use form provided on web in application materials).

**A complete application includes all information required on items I through VI below and the information in the Criteria for Review shown below. ALL PAGES ON THE FINAL APPLICATION MUST BE NUMBERED.**

**I. Face Sheet (use form provided on the web in the application materials)**

Complete all items on the Face Sheet

**II. Project Information (use form provided on the web in the application materials)**

Complete all items.

**III. 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) which 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 proposal enhances the availability and use of alternative care services;

The extent to which the proposal reduces the number of nursing home and licensed boarding care home resident rooms with more than two beds;

The extent to which the proposal promotes equitable access to long-term care services in nursing homes through redistribution of the nursing home bed supply;

The extent to which the project improves conditions that affect the health or safety of residents;

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 removes the need for waivers or variances;

The extent to which the project increases the number of private or single bed rooms;

The extent to which the project meets one of the priorities outlined by the 2007 Minnesota Legislature:

1. Complete building replacement in conjunction with reductions in the number of beds in a county, with greater weight given to projects in counties with a greater than average number of beds per 1,000 elderly;
2. Technology improvements;
3. Improvements in life safety;

4. Construction of nursing facilities that are part of senior services campuses; and
5. Improvements in the work environment.

A. Proposed Project

Explain why the proposed project is the best solution to the identified problem. What is the desired accomplishment(s) to 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, replacement, conversion, upgrading, or addition as those terms are defined in *Minnesota Statutes* 144A.073, subd.1 (see Appendix A1). No other proposals can be accepted.

**NOTE: If you intend to request rate adjustments in phases for the proposed project, this must be stated CLEARLY 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 Minnesota Statutes, 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.**

B. Assessment of Continued/Continuing Need

- a. Identify the geographic area to be served.
- b. 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 unserved or under-served populations, the elderly population in the service area, other services available in the area.
- c. Describe the continuing need for facility care in the community and adjacent communities.
- d. Provide the specific supporting data and describe the methodology (ies) used to identify this (these) need(s).

**For each project proposed, include the following:**

- a. include schematic drawings (2 copies only) and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation;

- b. describe the environmental conditions in the facility that are reviewed under MN rules, Part 4655.1084, subpart 10, and any proposed changes in those conditions (see Appendix B);
  - c. 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 a, including costs of buildings, attached fixtures, land, land improvements, construction site preparation, equipment, 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);**
  - d. provide current estimated long-term financing costs of the proposal, including amount and sources of money, bond fund reserve, or other similar reserves as required under the proposed financing mechanisms, annual payments scheduled, interest rates, length of term, and closing costs and fees. If applicable, also include estimated changes in real estate taxes and/or annual operating costs.
  - e. 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;
  - f. 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;
  - g. provide an estimate of costs of renovations as an alternative to replacement, or of replacement as an alternative to renovation and briefly explain why the proposer chose replacement rather than renovation or renovation rather than replacement;
  - h. include an estimated beginning date of construction for renovation and replacements and the proposed timetable for completion of construction;
- D. Include 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.

E. 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.

F. Additional Information

Include all additional information that you believe provides evidence of the need for the proposed project (see “Criteria for Award” section)

**NOTE: If you intend to request rate adjustments in phases for the proposed project, this must be stated CLEARLY 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 Minnesota Statutes, 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.**

**IV. Assurances and Agreements (use form provided on web in the application materials)**

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.

**V. Cost Justification, see Appendices D and G**

**VI. Questions Regarding Application Process**

Any questions relating to the RFP process must be submitted by prospective applicants in writing to:

Mary Cahill  
Minnesota Department of Health  
Division of Compliance Monitoring  
P.O. Box 64900  
St. Paul, MN 55164-0900  
FAX: (651) 215-9695  
[mary.cahill@state.mn.us](mailto:mary.cahill@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 Minnesota Department of Health staff will be considered official. The closing date for the receipt of questions will be 4:00 p.m., Friday, October 17, 2008.

Technical assistance in completing the RFP application forms is available from Care Providers of Minnesota at (952) 854-2844, or from Minnesota Health and Housing Alliance at (651) 645-4545.

**V. Deadline**

No proposals submitted by facsimile machine will be accepted.

Please submit six written copies of the completed proposal by 4:00 p.m., Thursday, December 11, 2008. Submit copies to Darcy Miner.

U.S. Mail Services

Darcy Miner  
Minnesota Department of Health  
Division of Compliance Monitoring  
P.O. Box 64900  
St. Paul, Minnesota 55164-0900

Courier or Walk-In Service

Darcy Miner  
Minnesota Department of Health  
Division of Compliance Monitoring  
85 East Seventh Place, Room 220  
St. Paul, Minnesota 55101

**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 submit this Letter of Intent by October 17, 2008**. 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 fax this Letter of Intent to:  
Mary Cahill, (651) 215-9695

Your cooperation is sincerely appreciated.

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

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

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

Type of project anticipated:

renovation

replacement

conversion

upgrading

relocation

addition

Official Use only:  
Control No. \_\_\_\_\_  
Date Received \_\_\_\_\_  
Time Received \_\_\_\_\_

**FACE SHEET  
APPLICATION FOR  
EXCEPTION TO THE NURSING HOME MORATORIUM**

1. APPLICANT FACILITY (with which contract is to be executed)

Legal  
Name: \_\_\_\_\_

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

Phone: ( ) \_\_\_\_\_

2. ADMINISTRATOR/DIRECTOR OF APPLICANT FACILITY

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

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

Phone: ( ) \_\_\_\_\_ fax: ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

3. CONTACT PERSON FOR INFORMATION REGARDING APPLICATION  
PROCESS

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

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

Phone: ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

4. CORPORATE/OPERATING AGENCY (if different from number 2.)

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

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

Phone: ( ) \_\_\_\_\_

5. CONTACT PERSON FOR CORPORATE/OPERATING AGENCY (if different from number 2.)

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

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

Phone (\_\_\_\_) \_\_\_\_\_

E-Mail Address \_\_\_\_\_

6. FISCAL MANAGEMENT OFFICER OF APPLICANT FACILITY

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

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

Phone:(\_\_\_\_) \_\_\_\_\_

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

**EXCEPTION TO THE NURSING HOME MORATORIUM**

Project Information

APPLICANT FACILITY: \_\_\_\_\_

CITY AND COUNTY: \_\_\_\_\_

Project is for: (check all that apply)

- Conversion
- Relocation
- Renovation
- Replacement
- Upgrading
- Addition

ESTIMATE OF TOTAL COSTS FOR PROJECT: \_\_\_\_\_

SERVICE AREA (city(s) and County(s)) \_\_\_\_\_

SOCIAL SECURITY OF MN TAX I.D. #: \_\_\_\_\_

Official Use Only

Fiscal Control No.: \_\_\_\_\_

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

Time Received: \_\_\_\_\_

---

(Name of Applicant Facility)

**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 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 will be submitted to the Commissioner of Health for prior approval whenever:
    1. Changes in approved projects for renovation, replacement, relocation, conversion, or upgrading which alter the methods or materials described in the final working drawings must be submitted to the commissioner for review and approval before the changes are made, according the *Minnesota Rules*, part 4658.4025.
    2. 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.
    3. The proposer will immediately report to the commissioner any cost overruns including a description of the reasons for the overrun.
    4. On 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:

1. Accurate, current, and complete disclosure of the financial status of the project;
2. 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;
3. Comparison of actual obligations with budget amounts for each activity;
4. Accounting records which are supported by source documentation; and
5. 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.

**AUTHORIZED OFFICIAL:** \_\_\_\_\_

**PRINT:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**CRITERIA FOR REVIEW OF  
EXCEPTION TO THE NURSING HOME MORATORIUM PROJECTS**

**I. Application is in accordance with Minnesota Statutes 144A.073, subd. 3 and Minnesota Rules, Parts 4655.1070 to 4655.1098.**

- A. Applicant is a nursing home, certified boarding care home, or attached hospital.
- B. Proposal was received by the Commissioner of Health before the deadline.
- C. Proposal meets the definition of:
  - 1. Renovation
  - 2. Replacement
  - 3. Conversion
  - 4. Upgrading
  - 5. Relocation
  - 6. Addition

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

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

- A. All pages are numbered.
- B. Submitted with required content:
  - 1. completed Face Sheet and Project Information Forms
  - 2. problem description
  - 3. proposed project
  - 4. assessment of continued/continuing need
  - 5. includes schematic drawings and an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation
  - 6. 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, land improvements, construction site preparation, and related soft costs

7. provides current estimated long-term financing costs of the proposal, including amount and sources of money, bond fund reserve, or other similar reserves as required under the proposed financing mechanisms, annual payments scheduled, interest rates, length of term, closing costs and fees, and insurance costs that are directly related to the building, attached fixtures, land, land improvements, and building site preparation
8. states the current cost of real estate taxes and special assessments for the facility and also an estimate of those that would be assessed if the proposal were implemented
9. states any changes in annual operating costs resulting from this proposal
10. describes the environmental conditions in the facility that are reviewed under MN Rules, Part 4655.1084, subpart 10, and any proposed changes in those conditions
11. 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
12. provides an estimate of the costs of renovation as an alternative to replacement, or of replacement as an alternative to renovation
13. includes an estimated beginning date of construction for renovations and replacements and the proposed timetable for completion of construction
14. briefly explains why the proposer chose replacement rather than renovation or renovation rather than replacement
15. 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
16. proposed relocation plan for residents, if applicable
17. if applicable, clearly stating intent to request rate adjustments in phases

### **III. CRITERIA FOR AWARD**

- A. Procedural requirements for application are met (see Section II above)
- B. The extent to which the proposal enhances the availability and use of alternative care services
- C. The extent to which the proposal reduces the number of nursing home and licensed boarding care home resident rooms with more than two beds
- D. The proposal's long-term effects on state costs, including the cost estimate of the project according to Minn. Stat. §144A.071, subdivision 5a
- E. The extent to which the proposal promotes equitable access to long-term care services in nursing homes through redistribution of the nursing home bed supply, as measured by the number of beds relative to the population 85 or older, using data published according to requirements in Minnesota Statutes 144A.351 and available in the most current version of the Minnesota Department of Human Services report "Status of Long-term Care in Minnesota"
- F. The extent to which the project improves conditions that affect the health or safety of residents, such as narrow corridors, narrow door frames, unenclosed fire exits, and wood frame construction, and similar provisions contained in fire and life safety codes and licensure and certification rules
- G. 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
- H. The extent to which the applicant demonstrates the delivery of quality care, as defined in state and federal statutes and rules, to residents as evidenced by the two most recent state agency certification surveys and the applicants' response to those surveys
- I. The extent to which the project removes the need for waivers or variances previously granted by either the licensing agency, certifying agency, fire marshal, or local government entity
- J. The extent to which the project increases the number of private or single bed rooms

K. The extent to which the applicant demonstrates the continuing need for facility care in the community and adjacent communities.

L. The extent to which the project meets one of the priorities outlined by the 2007 Minnesota Legislature:

1. Complete building replacement in conjunction with reductions in the number of beds in a county, with greater weight given to projects in counties with a greater than average number of beds per 1,000 elderly;
2. Technology improvements;
3. Improvements in life safety;
4. Construction of nursing facilities that are part of senior services campuses;  
and
5. Improvements in the work environment.

## 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 Rule 50 Methodology for rate setting and reasonableness principles as in past Moratorium rounds.
  
- For Property costs, the proposer shall:
  - Estimate construction cost of project showing amounts for buildings, equipment, technology, capitalized interest, debt service reserve funds, financing and issuing, separately
  - Historical cost of estimated asset disposals
  - Determine amount to be financed with debt versus equity, including details of the proposed funding mechanism already arranged or being considered
  - Use interest rate as provided in Minnesota Statutes, § 144A.071, subdivision 5a.
  - Determine term of debt
  - Indicate single bed room election and change number of single bed rooms
  - Anticipated public grants or insurance proceeds
  
- Estimate change in real estate taxes as a result of this proposal
  
- Estimate change in annual operating costs as a result of this proposal

## APPENDIX E

### Exception to Moratorium Application Review Process Timeline

July 14, 2008

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

October 17, 2008

Letter of Intent to submit and any written questions submitted to The Department of Health

December 11, 2008

Applications must be received by Darcy Miner for the Commissioner of Health.

December 12, 2008

Technical staff review by MDH/DHS staff to determine application compliance. Copies of qualified proposals forwarded to MDH Division of Compliance Monitoring Engineering Services staff and DHS Nursing Facility Rates and Policy staff.

December 15, 2008 – February 2, 2009

Completed applications reviewed for technical merit, staff data collection and determination of state share costs. Qualified proposals forwarded to Proposal Review Committee.

Week of February 2, 2009

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

February 23, 2009 (tentative date) 9:00a.m. – 4p.m. Mississippi Room at MDH Snelling Office Park in St. Paul. Public Presentation Meeting. Applicants present proposal and address questions from the Proposal Review Committee. Note: Time may vary depending on the number of proposals received. Information on this meeting will be sent to the contact person in each application by December 31, 2008.

February 24, 2009 (tentative date)

Proposal Review Committee meets to discuss proposals and develops and submits its recommendations and rankings to the Commissioner of Health.

No later than March 6, 2009

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 April 6, 2009

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

No later than April 16, 2009

The Commissioner of Health shall send a written notice 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

There are a large number of exceptions to the moratorium on the licensure and certification of nursing home beds in Minnesota. It is in your interest to know them well, and to know how your facility stands in reference to them. The general reference in statute is Minn. Stat. §144A.071, especially subdivisions 3 & 4a which enumerate exceptions, and Minn. Stat. §144.073, which defines the competitive moratorium exceptions process authorized under Minn. Stat. §144A.071, subd. 4a, clause (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.

#### **PROCEDURES**

##### **1. Are past proposals available for review? If so, where?**

The proposals from the most recent round of moratorium exceptions are available for review at the offices of the Minnesota Department of Health Division of Compliance Monitoring. Office hours are 8:00 a.m. to 4:30 p.m. Monday through Friday. The Compliance Monitoring Division offices are located at the Golden Rule Building, 85 East Seventh Place, St. Paul, Minnesota on the 3<sup>rd</sup> floor. Please call ahead to (651) 215-3701 to insure the files are available.

##### **2. 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 Mary Cahill, Minnesota Department of Health, Division of Compliance Monitoring, P.O. Box 64900 St. Paul, Minnesota 56164-0900 or e-mail [mary.cahill@state.mn.us](mailto:mary.cahill@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, so that each prospective applicant has access to the same information. The applicant is to provide an e-mail address for responses.

#### **PROJECT DEFINITIONS**

##### **3. Does a project need special approval through the competitive exceptions process if it makes no changes in bed configurations or rooms? What is the definition of a competitive moratorium exceptions project?**

Basically the answer is yes: the moratorium is meant to control both the number and licensure or certification status of beds, and also Medical Assistance (MA) expenditures. Under current law, facilities can make changes in the configuration of beds under

conditions defined in statutes. Proposals for bed reconfiguration, day space, dining rooms, administrative wings, and so forth, must go through the Moratorium Exceptions process IF THE PROVIDER WANTS TO SEEK REIMBURSEMENT FOR COSTS THAT EXCEED THE MAXIMUM STATUTORY THRESHOLD, which is currently \$1,400,482. The provider must, of course, comply with all existing regulations and laws governing buildings used to deliver long-term care services.

A (rough) general definition of a moratorium exceptions project that must go through the process established in Minn. Stat. §144A.071 subd. 4a, item (c) and defined at Minn. Stat. §144A.073 is that it is one which:

is a renovation, replacement, relocation, upgrade, addition, or conversion of a facility that is used to deliver long-term care; and/or

Costs more than the maximum threshold.

Facilities are allowed to upgrade Certified Boarding Care Homes to Nursing Homes without receiving an exception to the moratorium as long as the total cost does not exceed \$200,000 or 10 percent of the appraised value of the facility, whichever is less. **(PLEASE NOTE!! The limit of \$200,000 or 10% of the appraised value of the facility for Upgrading Beds was not increased by the Legislature.)** Upgrading that exceeds these costs must apply for an Exception.

Total Replacements must go through the competitive exceptions process regardless of the total cost of the project.

This interpretation of the statute is only meant to help guide proposers; it is not a substitute for the law itself, and any serious proposer should look carefully at the law to determine if the competitive exceptions process is appropriate for them.

#### **4. Does a project need approval if it has no impact on Medicaid expenditures?**

Generally, yes. If a proposed project otherwise fits the definitions of a project that must go through the exceptions process, the single fact that it does not have any impact on MA expenditures does not exempt it. The statute covering the moratorium (Minn. Stat. §144A.071) applies to licensed only, as well as licensed and certified facilities, and does not exempt facilities simply because they have no MA costs, or because they are not authorized to receive MA reimbursements.

However, the statute allows for cost neutral (with regard to state costs) relocations to be proposed and reviewed by the commissioner at any time (not necessarily during a formal exceptions process). That statute reads:

§144A.073, subd. 3c. **Cost neutral relocation projects.** (a) Notwithstanding subdivision 3, the commissioner may at any time accept proposals, or amendments to proposals previously approved under this section, for relocations that are cost neutral with respect to state costs as defined in section 144A.071, subdivision 5a. The

commissioner in consultation with the commissioner of human services shall evaluate proposals according to subdivision 4, clauses (1), (2), and (3), and other criteria established in rule. The commissioner shall approve or disapprove a project within 90 days. Proposals and amendments approved under this subdivision are not subject to the six-mile limit in subdivision 5, paragraph (e).

(b) For the purposes of paragraph (a), cost neutrality shall be measured over the first three 12-month periods of operation after completion of the project.

**5. 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.

**6. 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 the MN Department of Health for occupancy. Without such clearance, there is no phase and no rate adjustment for a phase.

Additionally, 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.

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

Yes, assuming that the Department of Health approves the preliminary drawings and that the project meets other applicable regulations (for example, those in Minn. Stat., chapter 144A and Minn. Rules, Chapter 4658). Under Minn. Stat. §144A.071, subd. 4a, clause (b), beds can be moved within a facility provided that the total costs of associated remodeling do not exceed the maximum threshold. If the facility is willing to make a written commitment to the commissioner of Human Services that it will not seek an increase in its property-related payments, then it may exceed the threshold.

**8. Is it permissible to build a replacement within the six mile limit, but outside the current township?**

Yes, In rural areas that are outside the metropolitan region or another metropolitan statistical area, replacements must be constructed within six miles of the existing site, and they must be located within the same or a contiguous township.

However, Minn. Stat. §144A.073, subdivision 5, clause (f) does allow for an exemption from that six-mile limit when there are three facilities involved in the relocation process. The relocation of part of an existing first facility to a second location may include the relocation to the second location of up to four beds from part of an existing third facility located in a township contiguous to the location of the first facility. The six-mile limit does not apply to this relocation from the third facility.

**9. Are furniture or other movable equipment subject to the exceptions laws?**

Yes. Moveable equipment, such as furniture, and technology are considered cost items for the purpose of this exceptions process.

**10. 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, and directly related to resident care, and whether its cost is within the replacement cost new investment per bed limitation for the new purpose.

**11. 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.

**12. Has MDH identified counties with not enough alternatives to nursing homes?**

No. MDH knows where nursing homes and registered housing with services establishments are located. DHS knows where alternative care grants have been awarded. It is difficult to pull together that information. Some of the moratorium exceptions projects may include developing or coordinating with alternatives to nursing home care. Information on those alternatives should be included in the moratorium exception application (for example, there are no alternatives in the community, this is the only nursing home in the area, part of the project is developing an assisted living setting or adding adult day care).

**13. Will the commissioner 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, subd. 4 item 3, the commissioner will be using the most recent Distribution of Beds study, which is titled *Status of Long-Term Care in Minnesota –(most recent version available)*, and any updates where the

commissioner knows of significant changes in the number or location of beds. This report can be accessed by going to [www.dhs.state.mn.us](http://www.dhs.state.mn.us) and clicking on ‘Publications’, then ‘Reports’, then ‘Nursing homes’, then ‘Status of Long-term Care in Minnesota’.

**14. Are any of the approval criteria considered more important than the others?**

For this round of moratorium exceptions applications, each of the approval criteria will be given equal importance and priority shall be given as described in Criteria for Award, item L.

**15. 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.

**16. 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.

**PHYSICAL PLANT**

**17. 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.

**18. 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.

**19. 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.

**20. 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.

**21. 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 (which replaced part 4660.1420) states:

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

**22. 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.

**23. 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 (MN Rules, part 4658.4100). In the case of a new wing, the five percent is calculated in terms of the new rooms added, not in terms of the total number of rooms in the facility including the old ones.

**24. Do projects that do not construct facility replacements or additions involving bedrooms have to 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.

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

If those conflicts are identified early on 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 Jerry Norman, MN Dept. of Labor and Industry, (651)284-5872 or [gerald.norman@state.mn.us](mailto:gerald.norman@state.mn.us)

## APPENDIX G

### COST ANALYSIS QUESTIONS AND ANSWERS ON THE COMPETITIVE MORATORIUM EXCEPTIONS PROCESS

#### **1. On what basis will approved projects have rates adjusted to reflect expenditures?**

Upon completion of a construction project which exceeds the minimum threshold or is an approved moratorium exception project, the facility will request a revised property rate, and, based on this request, the Department of Human Services will establish the property rate to reflect the project allowable debt, allowable interest expenses, and allowable property costs. The new rates will be effective the first day of the month following the month in which the project is completed. The completion date is the date a clearance is issued by MDH, or if none is required, the first day when the new plant is available for use.

#### **2. Under what circumstances would added debt be allowed if it exceeds appraised value?**

Debt incurred as part of a moratorium exception project cannot exceed the historical costs of the assets acquired. These assets include buildings, attached fixtures, and land improvements. Debt incurred can exceed the cost of assets acquired if the excess is for soft costs (e.g., financing costs, legal fees, title searches), and debt reserve funds. There are limits on the total amount that can be allowed related to some of these items. Please refer to Minnesota Statutes, Chapter 256B, Section 431, subdivision 17a, and for debt on land see Minnesota Rule 9549.0060, subpart 5, item A (1).

#### **3. 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.

#### **4. Will the current authorization be spent over a biennium, or entirely in the next year?**

The total approval authority of \$3,000,000 is for the added annual state MA costs of all projects approved during this biennium (7/1/2007 – 6/30/2009). Proposals will be selected to use the entire authorization, if possible. The authorization refers to additional yearly state MA cost increases after all approved projects are completed.

**5. Will there be additional monies authorized for future exceptions projects?**

The Legislature appropriated \$3,000,000 for the current biennium (7/1/2007 – 6/30/2009). Additional funding after 6/30/09 is dependent upon future legislative appropriations.

**6. 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.

**7. 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.

**8. Where do we include the mandated information for estimating property costs for replacement or remodeling projects?**

All cost related items, including construction costs, can be included in the cost reporting section.

**9. 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 historical cost of the building addition.

If a facility's moratorium exception project is approved, these costs will be included as a building cost when determining their building project rate adjustment.

**10. How will additional costs for leave days be calculated when a facility is transferring beds from a facility that has less than 93% occupancy?**

This will be calculated as follows:

Estimated annual leave days (supplied by the facility)  
times the MA occupancy percentage  
times 60% of weighted average total payment rate

**11. What additional information will facilities that are transferring or delicensing 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 delicensed
- 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 93% 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.

**12. I am thinking of adding a new unit to my facility, outside of my moratorium exceptions application, and expect my costs to change because of that new unit. Do I include those costs in my application?**

No, just include the costs due to the moratorium exceptions proposal.

**13. How are beds on the layaway program to be accounted for in a proposal?**

If the space the beds had occupied is going to be used for nursing facility services after the project is completed, the costs of the project related to that space is counted as allowable. If the space will not be used for nursing facility services in the future, an adjustment will be made to the rate for the amount of space not used for nursing facility services.

The beds on lay away are not used to compute the capacity days divisor for the rental per diem. If the beds are removed from lay away at a later date, the per diem amount of the rental per diem will decrease because of the greater number of capacity days. Beds that are unoccupied, but not put on lay away, remain in the calculation of the rental per diem divisor.

**14. 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 would explain in your proposal how you allocated the costs of the two parts of the project.

Questions about cost analysis should be directed to DHS staff, Marilyn Kaufenberg, (651) 431-2270 or Greg TaBelle, (651) 431-2262.