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

US Mail:  
Minnesota Department of Health  
Health Regulation Division  
P.O. Box 64900  
St. Paul, MN 55164-0900

Courier:  
Minnesota Department of Health  
Health Regulation Division  
85 East 7th Place, Room 220  
St. Paul, MN 55101
# TABLE OF CONTENTS:

REQUESTS FOR PROPOSALS FOR EXCEPTIONS TO THE NURSING HOME MORATORIUM *(State Register Notice)* ................................................................. 4

APPLICATION INSTRUCTIONS ................................................................................................................. 7
  - Letter of Intent .................................................................................................................. 14
  - Face Sheet ......................................................................................................................... 15
  - Project Information ........................................................................................................... 17

ASSURANCES and AGREEMENTS .................................................................................................................. 18

CRITERIA FOR REVIEW .......................................................................................................................... 20

CRITERIA FOR AWARD .......................................................................................................................... 23

**NOTE:** Numerous changes were made regarding reimbursement for approved moratorium projects. This information is located in Article 4 here: [Minnesota Laws CHAPTER 9--S.F.No. 12](https://www.revisor.mn.gov/laws/2019/1/Session+Law/Chapter/9/)

## APPENDICES:

Appendix A: Minn. Stat. § 144A.071.
*Moratorium on Certification of Nursing Home Beds*
[https://www.revisor.mn.gov/statutes/?id=144A.071](https://www.revisor.mn.gov/statutes/?id=144A.071)

*Exceptions to the Moratorium Review*
[https://www.revisor.mn.gov/statutes/?id=144A.073](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](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](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](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 and Answers on the Competitive Moratorium Exceptions Process

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

July 2019 Beds by 1000, Age 65 years and over and 85 years and over, by individual counties and contiguous groups report is accessible on the Nursing Home Moratorium Application website: Nursing Home Moratorium Application Materials (https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html)
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 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, 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 Subd 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 $1,207,815.
NOTE: As of October 1, 2019, Minn. Stat. § 256B.434, Subd. 4f, allows projects with costs less than $1,729,222 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, Subd. 4a, states the criteria the commissioner of health is to consider in reviewing moratorium exception proposals:

   Subd. 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:

   (1) the extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults;
   (2) the extent to which the project provides for the complete replacement of an outdated physical plant;
   (3) 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;
   (4) the extent to which the project produces improvements in health; safety, including life safety code corrections; quality of life; and privacy of residents;
   (5) 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;
   (6) 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;
   (7) 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
   (8) the extent to which the project provides or maintains access to nursing facility services needed in the community.
Procedure for Receiving Application Materials

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

Or upon e-mail or written request to:

Amy Johnson
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, MN 55164-0900
Email: amy.lee.johnson@state.mn.us

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, or via Skype, 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 3, 2020.

Questions Concerning the RFP

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

Amy Johnson
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, MN 55164-0900
Email: amy.lee.johnson@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 18, 2019.

Technical assistance in completing the application forms is available from Jeff Bostic at LeadingAge of Minnesota, at (651) 645-4545, or Todd Bergstrom at 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 4:30 p.m. on Friday, December 20, 2019 by:**

**U.S. Mail Service:**
Michelle Larson  
Minnesota Department of Health  
Health Regulation Division  
P.O. Box 64900  
St. Paul, MN 55164

**Courier or Walk-In Service:**
Michelle Larson  
Minnesota Department of Health  
Health Regulation Division  
85 East Seventh Place, Room 220  
St. Paul, MN 55101

Please note: we are expecting to receive a large number of proposals this year. If you miss the firm December 20, 2019 deadline, we will not be able to review your project.

**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 ANY FACILITY.**

These instructions pertain only to exceptions that require review by the Commissioner of Health. For this exception to the moratorium process, Minn. Stat. § 256B.434, Subd. 4f allows projects with costs LESS than $1,729,222 to proceed without applying for an exception under this process.

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 submit it to MDH by Friday, October 18, 2019. (Use form provided on the web in application materials). See Appendix E for Moratorium Application Review Process Time Line.

**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.

I. **Face Sheet (use form provided on the web in the application materials)**
Complete all items on the Face Sheet on pages 15-16 in this packet.

II. **Project Information (use form provided on the web in the application materials)**
Complete all items on pages 17 through 19 in this packet.

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.

A. **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.

B. 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, replacement, conversion, upgrading, or addition as those terms are defined in Minn. Stat. § 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 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, Subd. 1(g)). Applications that do not identify phases will not be allowed to have rate adjustments in phases when construction is completed.

C. 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:

1. Identify the geographic area to be served.

2. 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.

3. Describe the continuing need for facility care in the community and adjacent communities.

4. Provide the specific supporting data and describe the methodology(ies) used to identify this (these) need(s).

D. Information/Documents to Include in the Proposed Project:

1. Include an outline of specifications, prepared by a registered architect, for all construction projects including replacement and renovation.

2. Schematic drawings can be provided in two ways. The drawings can be: (1) physically included into each submitted copy of the completed project; OR (2) provided separately. If you choose to include the schematic drawings separately, please provide 2 (two) copies of the drawings on 11”x17” size paper AND a USB flash drive or CD containing an electronic pdf copy of the schematic drawings. The schematic drawings must be prepared by a registered architect.

3. 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).

4. 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.
5. Include an estimated appraised value for the entire facility (existing and new) after the completion of the project, excluding all land, land improvements and movable equipment. Provide supporting documentation for the value submitted.

6. 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.

7. 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.

8. 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.

9. Include an estimated beginning date of construction for renovation and replacements, and the proposed timetable for completion of construction.

10. 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.

11. 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.

E. Additional Information

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

IV. Assurances and Agreements

Use the Assurances and Agreements form on pages 18-19 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.

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:

Amy Johnson  
Minnesota Department of Health  
Health Regulation Division  
P.O. Box 64900  
St. Paul, MN 55164-0900  
Email: Amy.lee.johnson@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 4:00 p.m., Friday, October 18, 2019.

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

VII. Deadline

No proposals submitted by facsimile machine will be accepted.

Please submit six written copies of the completed proposal by 4:30 p.m., Friday, December 20, 2019. Submit copies to Michelle Larson.

U.S. Mail Services  
Michelle Larson  
Minnesota Department of Health  
Health Regulation Division  
P.O. Box 64900  
St. Paul, Minnesota 55164-0900
APPLICATION MATERIALS FOR NURSING HOME MORATORIUM EXCEPTION

Courier or Walk-In Service
Michelle Larson
Minnesota Department of Health
Health Regulation Division
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 18, 2019. 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 e-mail this Letter of Intent to:
Amy.lee.johnson@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
APPLICATION FOR
EXCEPTION TO THE NURSING HOME MORATORIUM

1. APPLICANT FACILITY (with which contract is to be executed)
   Legal Name:__________________________________________________________
   Address:____________________________________________________________
   Phone: (____)_________________________ Fax: (____)_______________________
   E-mail: __________________________________________________________________

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: ( ) ___________________ Fax: ( ) ____________________________
E-mail ____________________________

5. CONTACT PERSON FOR CORPORATE/OPERATING AGENCY (if different from number 2.)
Name/Title: __________________________________________________________
Address: _____________________________________________________________
Phone: ( ) ___________________ Fax: ( ) ____________________________
E-mail ____________________________

6. FISCAL MANAGEMENT OFFICER OF APPLICANT FACILITY
Name/Title: __________________________________________________________
Address: _____________________________________________________________
Phone: ( ) ___________________ Fax: ( ) ____________________________
E-mail ____________________________

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: ________________________________________________________________
APPLICATION MATERIALS FOR NURSING HOME MORATORIUM EXCEPTION

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

☐ 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 Excluding land, land improvements and moveable equipment:

__________________________________________________________________________

SERVICE AREA (City(s) and County(s)): _______________________________________

SOCIAL SECURITY OR MN TAX I.D. #: ___________________________________________

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:

1. 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 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. 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.

4. 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, Subd. 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 that 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 Minn. Stat. § 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
   7. Consolidation
   8. Phased project

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, construction site preparation, and related soft costs.

7. Include an estimated appraised value for the entire facility (existing and new) after the completion of the project, excluding all land, land improvements and movable equipment. Provide supporting documentation for the value submitted.

8. 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.

9. 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.

10. States any changes in annual operating costs resulting from this proposal.

11. 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.

12. 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.

13. Provides an estimate of the costs of renovation as an alternative to replacement, or of replacement as an alternative to renovation.

14. Includes an estimated beginning date of construction for renovations and replacements and the proposed timetable for completion of construction.

15. Briefly explains why the proposer chose replacement rather than renovation or renovation rather than replacement.

16. 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.
17. Proposed relocation plan for residents, if applicable.

18. If applicable, clearly stating intent to request rate adjustments in phases.
CRITERIA FOR AWARD

A. Procedural requirements for application are met (see Section II of Criteria for Review of Exception to the Nursing Home Moratorium Project).

B. The extent to which the proposed nursing home project is integrated with other health and long-term care services for older adults.

C. The extent to which the project provides for the complete replacement of an outdated physical plant.

D. The proposal’s long-term effects on state costs, including the cost estimate of the project according to Minn. Stat. §144A.071, Subd. 5a.

E. 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: “July 2019 beds by 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: Nursing Home Moratorium Application Materials (https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratorium/index.html)

F. The extent to which the project produces improvements in health, safety, including life-safety-code corrections, quality of life, and privacy of residents.

G. 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.

H. 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.

I. 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.

J. The extent to which the project provides or maintains access to nursing facility services in the community.
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 Minn. Stat. § 256R.26 for rate setting principles. This is DIFFERENT than past Moratorium rounds.

- For Property 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 for the entire facility (existing and new) after the completion of the project, excluding all land, land improvements and movable equipment. Provide supporting documentation for the value submitted.
APPENDIX E

Exception to Moratorium Application Review Process Timeline

**July 22, 2019**
Request for Proposals for Moratorium Exceptions Projects published in the *State Register*.

**October 18, 2019**
Submit Letter of Intent and any written questions concerning the moratorium application process to MDH.

**December 20, 2019**
Applications must be received by Assistant Division Director Michelle Larson on behalf of the Commissioner of Health.

**December 23, 2019**
Technical staff review by MDH/DHS staff to determine application compliance. Copies of qualified proposals forwarded to MDH, Health Regulation Division, Engineering Services staff and DHS, Nursing Facility Rates and Policy staff.

**December 23, 2019 – January 24, 2020**
Completed applications reviewed for technical merit, staff data collection and determination of state share costs. Qualified proposals forwarded to Proposal Review Committee.

**Week of January 27, 2020**
Completed staff review summary and collected data sent to Proposal Review Committee.

**February 13/14, 2020 (Tentative Date/s) – Time/Location to be Determined.**
Public Presentation Meeting. Applicants present proposal and address questions from the Proposal Review Committee. The Proposal Review Committee meets after the presentations, in a non-public meeting to discuss proposals and develops and submits it recommendations and rankings to the commissioner of health. Information on this Public Presentation meeting will be sent to the contact person in each application by January 7, 2020.

**No later than February 24, 2020**
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 24, 2020
The Commissioner of Health shall decide to approve or disapprove each proposal.

No later than April 3, 2020
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.
APPLICATION MATERIALS FOR NURSING HOME MORATORIUM EXCEPTION

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, Subd. 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.

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, Health Regulation Division. Office hours are 8:00 a.m. to 4:30 p.m. Monday through Friday. The Health Regulation Division offices are located at the Golden Rule Building, 85 East Seventh Place, St. Paul, Minnesota on the 3rd floor. Please call ahead to 651-201-4121 to insure the files are available and to schedule a review time.

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 Amy Johnson, Minnesota Department of Health, Health Regulation Division, P.O. Box 64900 St. Paul, Minnesota 56164-0900, or email amy.lee.johnson@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. 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 estimated at $1,729,222. The provider must, of course, comply with all existing regulations and laws governing buildings used to deliver long-term care services.

A general definition of a moratorium exceptions project that must go through the process established in Minn. Stat. §144A.073 is one in 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 as specified in Minn. Stat. § 144A.071, subd. 2.

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. 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.

5. 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.

6. 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, Subd. 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.
7. **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.

8. **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.

9. **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.

10. **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, Subd. 4(3), the Commissioner will be using the most recent analysis, which is available in the report entitled, “July 2019 Beds by 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: [Nursing Home Moratorium Application Materials](https://www.health.state.mn.us/facilities/regulation/nursinghomes/moratoriumapp/index.html)

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

Each of the approval criterion is given equal importance.

12. **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.

13. **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.
14. 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. However, the submission does not guarantee approval as the process is competitive. Proposals for projects already complete will not be considered.

15. 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.

16. If a facility can apply to move some of its beds to another site in the same community, 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.

17. 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 through the bed relocation process. See: MS 144A.073, Subd. 3 (c) [https://www.revisor.mn.gov/statutes/?id=144A.073](https://www.revisor.mn.gov/statutes/?id=144A.073)
PHYSICAL PLANT
18. 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 “[c]ompliance 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.

19. 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.

20. 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.

21. 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.

22. 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 nurses station. Bedrooms must be located not more than 140 feet from the nurse’s station.
23. For projects involving waivered 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 waivered, 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.

24. 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). 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.

25. 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.

26. 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 Greg Metz, MN Dept. of Labor and Industry, 651-284-5884 or greg.metz@state.mn.us.
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. Will the current authorization be spent over a biennium, or entirely in the next year?

The balance of $207,815 is what remains of the $1,000,000 legislative appropriation approved in the 2016 legislative session for State Fiscal Year (SFY) 2017 plus carryover from expired and cancelled projects. The 2019 legislature appropriated an additional $1,000,000 for moratoriums. The $1,207,815 is available through June 30, 2020.

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

Additional funding after June 30, 2020 is dependent upon future legislative appropriations.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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).

Questions about moratorium cost analysis should be directed to Jane Gottwald at DHS via e-mail at jane.gottwald@state.mn.us.