

Nursing Home Non-Layaway Bed Waiver

HEALTH REGULATION DIVISION, LICENSING & CERTIFICATION

ATTENTION

The Minnesota Department of Health (MDH) Health Regulation Division (HRD) is temporarily modifying requirements for nursing home bed moratoriums.

We have lifted the moratorium on nursing home beds and are waiving the per-bed licensing fee during the COVID-19 emergency. This waiver will allow nursing homes to quickly expand their number of beds in order to relocate patients from hospitals or other settings to nursing homes that **do not** have a layaway bed option.

MDH still requires nursing homes to notify MDH about the bed changes and to ensure adequate and CDC-compliant space to care for COVID-19 residents.

Requirements Being Modified and Waived

[Emergency Executive Order 20-32 \(PDF\)](https://www.leg.state.mn.us/archive/execorders/20-32.pdf) (<https://www.leg.state.mn.us/archive/execorders/20-32.pdf>) issued on April 8, 2020, allows the Commissioner of Health to temporarily delay, waive, or modify certain requirements so that providers can take necessary action to protect Minnesotans. The following Minnesota Statutes related nursing home bed moratoriums are now modified:

- Section 144.122
- Section 144A.071

What HRD is Doing Differently

MDH has developed and communicated a [COVID-19-Related Bed, Capacity and/or Service Change Application Form \(PDF\)](https://www.health.state.mn.us/facilities/regulation/docs/bedincreaseform.pdf) (<https://www.health.state.mn.us/facilities/regulation/docs/bedincreaseform.pdf>) to accept and process changes related to COVID. The form contains instructions for submission, required information, and contacts, should questions arise.

Implementation Guidance

If your facility wants to add nursing home beds or make other bed-related changes to the COVID-19 emergency, you must submit the application form above. If an application requires additional Medicare bed certification, MDH will communicate the change to the Centers for Medicare and Medicaid Services (CMS) on behalf of the applicant. MDH will also communicate application decisions to the applicant.

EMERGENCY EXECUTIVE ORDER HEALTH REGULATION DIVISION PROVISION:
LICENSING & REGISTRATION – NURSING HOME NON-LAYAWAY BEDS

This modification allows nursing homes that **do not** have a layaway bed option to expand nursing home bed capacity. The change must be consistent with the State of Minnesota COVID Emergency Response, and newly added nursing home beds must be certified for Medicare only. Added beds must be located on an existing licensed nursing facility campus and in consultation with the Department of Human Services Nursing Home Rates and Policy Division adequate availability of existing Medicaid certified beds must be determined prior to adding beds.

This waiver does not add Medicaid-certified beds. For residents who are dually eligible under both Medicare and Medicaid, the Medicare benefit will be accessed. In other words, Medicare will be the payer where benefit exists. COVID-19-affected Medicaid-eligible residents without a Medicare benefit can still access the Medicaid service regardless of the bed location on the campus if the nursing facility does not exceed their current Medicaid-certified capacity.

Timeframe

Expanded nursing home beds in service under this waiver will be closed and not in effect no later than 60 days after the termination of the peacetime emergency declared in Executive Order 20-01.

Situations Not Included in this Waiver

Earlier this month, MDH waived requirements affecting state-licensed nursing homes related to removing beds from layaway. This waiver is still in effect. Details can be found in our [Nursing Home Capacity Waiver \(PDF\)](https://www.health.state.mn.us/facilities/regulation/nursinghomes/docs/nursinghomewaiver.pdf) (<https://www.health.state.mn.us/facilities/regulation/nursinghomes/docs/nursinghomewaiver.pdf>).

Questions?

To obtain this information in a different format or discuss questions you have regarding the Nursing Home Non-Layaway Bed Waiver, call: 651-201-4206 or email Health.HRDBedChanges@state.mn.us.

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To obtain this information in a different format, call: 651-201-4101.