

MEMORANDUM

TO: Health and Human Services and Public Safety Committee
CC: Mayor Strimling
FROM: Anne M. Torregrossa, Associate Corporation Counsel
DATE: October 9, 2018
RE: Paid Sick Time Ordinance – per diem health care workers, and new businesses

In the context of considering an exemption for per diem employees working for a healthcare facility, the Committee requested 1) a proposed definition for a covered healthcare facility; and 2) options for including some or all per diem employees working for a healthcare facility.

The Committee also requested language around exempting new employers in their first year of business, looking to the language adopted by Minneapolis.

Proposed definition for healthcare facility.

The Committee requested a definition for healthcare facilities who would be included in the exemption. I would recommend using the definition included in 22 M.R.S. § 328(8). This definition includes hospitals, nursing homes, and similar facilities. It is the definition used by state statute in the context of determining and regulating the healthcare needs of communities, including limiting the number of new facilities, transfers of ownership, etc. The definition in § 328 is:

Health care facility. "Health care facility" means a hospital, psychiatric hospital, nursing facility, kidney disease treatment center including a freestanding hemodialysis facility, rehabilitation facility, ambulatory surgical facility, independent radiological service center, independent cardiac catheterization center or cancer treatment center. "Health care facility" does not include the office of a private health care practitioner, as defined in Title 24, section 2502, subsection 1-A, whether in individual or group practice. In an ambulatory surgical facility that functions also as the office of a health care practitioner, the following portions of the ambulatory surgical facility are considered to be a health care facility:

- A. Operating rooms;
- B. Recovery rooms;
- C. Waiting areas for ambulatory surgical facility patients;
- C-1. Any space with major medical equipment; and
- D. Any other space used primarily to support the activities of the ambulatory surgical facility.

Options for covered employees of a healthcare facility

The Committee requested options for limiting the exemption for per diem employees to some category of licensed employees. Below are some provisions of state law that would govern various categories of licensees typically found in a healthcare facility.

- Title 32, Ch. 2 – Nursing Home Administrators
- Title 32, Ch. 2-B – EMS professionals
- Title 32, Ch. 9 – Chiropractors
- Title 32, Ch. 16 – Dentists and dental hygienists
- Title 32, Ch. 22 – ASL interpreters
- Title 32, Ch. 31 – Nurses (APRN, RN, LPN) and CNAs
- Title 32, Ch. 32 – Occupational Therapists
- Title 32, Ch. 36 – Osteopathic Physicians
- Title 32, Ch. 45-A – Physical Therapists
- Title 32, Ch. 48 – Doctors
- Title 32, Ch. 51 – Podiatrists
- Title 32, Ch. 56 – Psychologists
- Title 32, Ch. 81 – Alcohol and Drug Counselors
- Title 32, Ch. 83 – Social Workers
- Title 32, Ch. 93 – Private Security Guards
- Title 32, Ch. 97 – Respiratory Care Practitioners
- Title 32, Ch. 103 – Radiology Technicians
- Title 32, Ch. 104 – Dieticians
- Title 32, Ch. 113-B – Complementary health care providers (midwives, acupuncturists, etc.)
- Title 32, Ch. 119 – Counseling professionals
- Title 32, Ch. 127 – Massage therapists
- Title 32, Ch. 143 – Dental professions (dental hygienist, dental radiographer)

If the Committee chose to exempt all per diems working in a healthcare facility, that might include kitchen staff, janitorial staff, security staff, groundskeepers, administrative staff, and other support staff.

Minneapolis exemption for new employers

Until July 1, 2022, Minneapolis allows new employers to provide sick time on an unpaid basis. The exemption applies during an employer's first year of operation, except for a new location in an existing chain.