

**ARTICLE 6****COMMERCE POLICY**

1.1  
1.2  
1.3 Section 1. Minnesota Statutes 2021 Supplement, section 62J.26, subdivision 2, is amended  
1.4 to read:

1.5 Subd. 2. **Evaluation process and content.** (a) The commissioner, in consultation with  
1.6 the commissioners of health and management and budget, must evaluate all mandated health  
1.7 benefit proposals as provided under subdivision 3.

1.8 (b) The purpose of the evaluation is to provide the legislature with a complete and timely  
1.9 analysis of all ramifications of any mandated health benefit proposal. The evaluation must  
1.10 include, in addition to other relevant information, the following to the extent applicable:

1.11 (1) scientific and medical information on the mandated health benefit proposal, on the  
1.12 potential for harm or benefit to the patient, and on the comparative benefit or harm from  
1.13 alternative forms of treatment, and must include the results of at least one professionally  
1.14 accepted and controlled trial comparing the medical consequences of the proposed therapy,  
1.15 alternative therapy, and no therapy;

1.16 (2) public health, economic, and fiscal impacts of the mandated health benefit proposal  
1.17 on persons receiving health services in Minnesota, on the relative cost-effectiveness of the  
1.18 proposal, and on the health care system in general;

1.19 (3) the extent to which the treatment, service, equipment, or drug is generally utilized  
1.20 by a significant portion of the population;

1.21 (4) the extent to which insurance coverage for the mandated health benefit proposal is  
1.22 already generally available;

1.23 (5) the extent to which the mandated health benefit proposal, by health plan category,  
1.24 would apply to the benefits offered to the health plan's enrollees;

1.25 (6) the extent to which the mandated health benefit proposal will increase or decrease  
1.26 the cost of the treatment, service, equipment, or drug;

1.27 (7) the extent to which the mandated health benefit proposal may increase enrollee  
1.28 premiums; and

1.29 (8) if the proposal applies to a qualified health plan as defined in section 62A.011,  
1.30 subdivision 7, the cost to the state to defray the cost of the mandated health benefit proposal  
1.31 using commercial market reimbursement rates in accordance with Code of Federal  
1.32 Regulations, title 45, section 155.70.

2.1 (c) The commissioner shall consider actuarial analysis done by health plan companies  
 2.2 and any other proponent or opponent of the mandated health benefit proposal in determining  
 2.3 the cost of the proposal.

2.4 (d) The commissioner must summarize the nature and quality of available information  
 2.5 on these issues, and, if possible, must provide preliminary information to the public. The  
 2.6 commissioner may conduct research on these issues or may determine that existing research  
 2.7 is sufficient to meet the informational needs of the legislature. The commissioner may seek  
 2.8 the assistance and advice of researchers, community leaders, or other persons or organizations  
 2.9 with relevant expertise. The commissioner must provide the public with at least 45 days'  
 2.10 notice when requesting information pursuant to this section. The commissioner must notify  
 2.11 the prospective authors or chief authors of a bill or amendment when a request for information  
 2.12 is issued.

2.13 (e) Information submitted to the commissioner pursuant to this section that meets the  
 2.14 definition of trade secret information, as defined under section 13.37, subdivision 1, paragraph  
 2.15 (b), is nonpublic data.

2.16 Sec. 2. Minnesota Statutes 2020, section 62Q.735, subdivision 1, is amended to read:

2.17 Subdivision 1. **Contract disclosure.** (a) Before requiring a health care provider to sign  
 2.18 a contract, a health plan company shall give to the provider a complete copy of the proposed  
 2.19 contract, including:

2.20 (1) all attachments and exhibits;

2.21 (2) operating manuals;

2.22 (3) a general description of the health plan company's health service coding guidelines  
 2.23 and requirement for procedures and diagnoses with modifiers, and multiple procedures; and

2.24 (4) all guidelines and treatment parameters incorporated or referenced in the contract.

2.25 (b) The health plan company shall make available to the provider the fee schedule or a  
 2.26 method or process that allows the provider to determine the fee schedule for each health  
 2.27 care service to be provided under the contract.

2.28 (c) ~~Notwithstanding paragraph (b), a health plan company that is a dental plan~~  
 2.29 ~~organization, as defined in section 62Q.76, shall disclose information related to the individual~~  
 2.30 ~~contracted provider's expected reimbursement from the dental plan organization.~~ Nothing  
 2.31 in this section requires a dental plan organization to disclose the plan's aggregate maximum

3.1 allowable fee table used to determine other providers' fees. The contracted provider must  
 3.2 not release this information in any way that would violate any state or federal antitrust law.

3.3 Sec. 3. Minnesota Statutes 2020, section 62Q.735, subdivision 5, is amended to read:

3.4 Subd. 5. **Fee schedules.** (a) A health plan company shall provide, upon request, any  
 3.5 additional fees or fee schedules relevant to the particular provider's practice beyond those  
 3.6 provided with the renewal documents for the next contract year to all participating providers,  
 3.7 excluding claims paid under the pharmacy benefit. Health plan companies may fulfill the  
 3.8 requirements of this section by making the full fee schedules available through a secure  
 3.9 web portal for contracted providers.

3.10 ~~(b) A dental organization may satisfy paragraph (a) by complying with section 62Q.735,~~  
 3.11 ~~subdivision 1, paragraph (c).~~

3.12 Sec. 4. Minnesota Statutes 2020, section 62Q.76, is amended by adding a subdivision to  
 3.13 read:

3.14 Subd. 9. **Third party.** "Third party" means a person or entity that enters into a contract  
 3.15 with a dental organization or with another third party to gain access to the dental care services  
 3.16 or contractual discounts under a dental provider contract. Third party does not include an  
 3.17 enrollee of a dental organization or an employer or other group for whom the dental  
 3.18 organization provides administrative services.

3.19 **EFFECTIVE DATE.** This section is effective January 1, 2023, and applies to dental  
 3.20 plans and dental provider agreements offered, issued, or renewed on or after that date.

3.21 Sec. 5. Minnesota Statutes 2020, section 62Q.78, is amended by adding a subdivision to  
 3.22 read:

3.23 Subd. 7. **Network leasing.** (a) A dental organization may grant a third party access to  
 3.24 a dental provider contract, or a provider's dental care services or contractual discounts  
 3.25 provided pursuant to a dental provider contract, if at the time the dental provider contract  
 3.26 is entered into or renewed the dental organization allows a dentist to choose not to participate  
 3.27 in third-party access to the dental provider contract, without any penalty to the dentist. The  
 3.28 third-party access provision of the dental provider contract must be clearly identified. A  
 3.29 dental organization must not grant a third party access to the dental provider contract of any  
 3.30 dentist who does not participate in third-party access to the dental provider contract.

3.31 (b) Notwithstanding paragraph (a), if a dental organization exists solely for the purpose  
 3.32 of recruiting dentists for dental provider contracts that establish a network to be leased to

4.1 third parties, the dentist waives the right to choose whether to participate in third-party  
4.2 access.

4.3 (c) A dental organization may grant a third party access to a dental provider contract,  
4.4 or a dentist's dental care services or contractual discounts under a dental provider contract,  
4.5 if the following requirements are met:

4.6 (1) the dental organization lists all third parties that may have access to the dental provider  
4.7 contract on the dental organization's website, which must be updated at least once every 90  
4.8 days;

4.9 (2) the dental provider contract states that the dental organization may enter into an  
4.10 agreement with a third party that would allow the third party to obtain the dental  
4.11 organization's rights and responsibilities as if the third party were the dental organization,  
4.12 and the dentist chose to participate in third-party access at the time the dental provider  
4.13 contract was entered into; and

4.14 (3) the third party accessing the dental provider contract agrees to comply with all  
4.15 applicable terms of the dental provider contract.

4.16 (d) A dentist is not bound by and is not required to perform dental care services under  
4.17 a dental provider contract granted to a third party in violation of this section.

4.18 (e) This subdivision does not apply when:

4.19 (1) the dental provider contract is for dental services provided under a public health plan  
4.20 program, including but not limited to medical assistance, MinnesotaCare, Medicaid, or  
4.21 Medicare Advantage; or

4.22 (2) access to a dental provider contract is granted to a dental organization, an entity  
4.23 operating in accordance with the same brand licensee program as the dental organization  
4.24 or other entity, or to an entity that is an affiliate of the dental organization, provided the  
4.25 entity agrees to substantially similar terms and conditions of the originating dental provider  
4.26 contract between the dental organization and the dentist or dental clinic. A list of the dental  
4.27 organization's affiliates must be posted on the dental organization's website.

4.28 Sec. 6. Minnesota Statutes 2020, section 62Q.79, is amended by adding a subdivision to  
4.29 read:

4.30 Subd. 7. **Method of payments.** A dental provider contract must include a method of  
4.31 payment for dental care services in which no fees associated with the method of payment,  
4.32 including credit card fees and fees related to payment in the form of digital or virtual

5.1 currency, are incurred by the dentist or dental clinic. Any fees that may be incurred from a  
5.2 payment must be disclosed to a dentist prior to entering into or renewing a dental provider  
5.3 contract. For purposes of this section, fees related to a provider's electronic claims processing  
5.4 vendor, financial institution, or other vendor used by a provider to facilitate the submission  
5.5 of claims are excluded.

5.6 Sec. 7. Minnesota Statutes 2020, section 515B.3-102, is amended to read:

5.7 **515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

5.8 (a) Except as provided in subsections (b), (c), (d), ~~and~~ (e), (f), and (g), and subject to  
5.9 the provisions of the declaration or bylaws, the association shall have the power to:

5.10 (1) adopt, amend and revoke rules and regulations not inconsistent with the articles of  
5.11 incorporation, bylaws and declaration, as follows: (i) regulating the use of the common  
5.12 elements; (ii) regulating the use of the units, and conduct of unit occupants, which may  
5.13 jeopardize the health, safety or welfare of other occupants, which involves noise or other  
5.14 disturbing activity, or which may damage the common elements or other units; (iii) regulating  
5.15 or prohibiting animals; (iv) regulating changes in the appearance of the common elements  
5.16 and conduct which may damage the common interest community; (v) regulating the exterior  
5.17 appearance of the common interest community, including, for example, balconies and patios,  
5.18 window treatments, and signs and other displays, regardless of whether inside a unit; (vi)  
5.19 implementing the articles of incorporation, declaration and bylaws, and exercising the  
5.20 powers granted by this section; and (vii) otherwise facilitating the operation of the common  
5.21 interest community;

5.22 (2) adopt and amend budgets for revenues, expenditures and reserves, and levy and  
5.23 collect assessments for common expenses from unit owners;

5.24 (3) hire and discharge managing agents and other employees, agents, and independent  
5.25 contractors;

5.26 (4) institute, defend, or intervene in litigation or administrative proceedings (i) in its  
5.27 own name on behalf of itself or two or more unit owners on matters affecting the common  
5.28 elements or other matters affecting the common interest community or, (ii) with the consent  
5.29 of the owners of the affected units on matters affecting only those units;

5.30 (5) make contracts and incur liabilities;

5.31 (6) regulate the use, maintenance, repair, replacement, and modification of the common  
5.32 elements and the units;

6.1 (7) cause improvements to be made as a part of the common elements, and, in the case  
6.2 of a cooperative, the units;

6.3 (8) acquire, hold, encumber, and convey in its own name any right, title, or interest to  
6.4 real estate or personal property, but (i) common elements in a condominium or planned  
6.5 community may be conveyed or subjected to a security interest only pursuant to section  
6.6 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative  
6.7 may be subjected to a security interest, only pursuant to section 515B.3-112;

6.8 (9) grant or amend easements for public utilities, public rights-of-way or other public  
6.9 purposes, and cable television or other communications, through, over or under the common  
6.10 elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized  
6.11 by the declaration; and, subject to approval by a vote of unit owners other than declarant  
6.12 or its affiliates, grant or amend other easements, leases, and licenses through, over or under  
6.13 the common elements;

6.14 (10) impose and receive any payments, fees, or charges for the use, rental, or operation  
6.15 of the common elements, other than limited common elements, and for services provided  
6.16 to unit owners;

6.17 (11) impose interest and late charges for late payment of assessments and, after notice  
6.18 and an opportunity to be heard before the board or a committee appointed by it, levy  
6.19 reasonable fines for violations of the declaration, bylaws, and rules and regulations of the  
6.20 association;

6.21 (12) impose reasonable charges for the review, preparation and recordation of  
6.22 amendments to the declaration, resale certificates required by section 515B.4-107, statements  
6.23 of unpaid assessments, or furnishing copies of association records;

6.24 (13) provide for the indemnification of its officers and directors, and maintain directors'  
6.25 and officers' liability insurance;

6.26 (14) provide for reasonable procedures governing the conduct of meetings and election  
6.27 of directors;

6.28 (15) exercise any other powers conferred by law, or by the declaration, articles of  
6.29 incorporation or bylaws; and

6.30 (16) exercise any other powers necessary and proper for the governance and operation  
6.31 of the association.

7.1 (b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations  
7.2 on the power of the association to deal with the declarant which are more restrictive than  
7.3 the limitations imposed on the power of the association to deal with other persons.

7.4 (c) An association levying a fine pursuant to subsection (a)(11), or an assessment pursuant  
7.5 to section 515B.3-115(g) or 515B.3-1151(g), must provide written notice to a unit owner  
7.6 that:

7.7 (1) indicates the amount, date, and reason for the levy;

7.8 (2) identifies the violation for which a fine is being levied and the specific section of  
7.9 the declaration, bylaws, or rules and regulations allegedly violated;

7.10 (3) states that all unpaid fines and assessments are liens which, if not satisfied, could  
7.11 lead to foreclosure of the unit;

7.12 (4) describes the right of the unit owner to be heard by the board or a committee appointed  
7.13 by the board;

7.14 (5) states that if the assessment or fine is not paid, the amount owed may increase as a  
7.15 result of the imposition of attorney fees and other costs of collection; and

7.16 (6) informs the unit owner that homeownership assistance is available from, and includes  
7.17 the contact information for, the Minnesota Homeownership Center.

7.18 (d) No attorney fees are chargeable or may be collected from a unit owner who disputes  
7.19 the levy or assessment and prevails at a hearing held by the board or a committee appointed  
7.20 by the board.

7.21 ~~(e)~~ (e) Notwithstanding subsection (a), powers exercised under this section must comply  
7.22 with section 500.215.

7.23 ~~(d)~~ (f) Notwithstanding subsection (a)(4) or any other provision of this chapter, the  
7.24 association, before instituting litigation or arbitration involving construction defect claims  
7.25 against a development party, shall:

7.26 (1) mail or deliver written notice of the anticipated commencement of the action to each  
7.27 unit owner at the addresses, if any, established for notices to owners in the declaration and,  
7.28 if the declaration does not state how notices are to be given to owners, to the owner's last  
7.29 known address. The notice shall specify the nature of the construction defect claims to be  
7.30 alleged, the relief sought, and the manner in which the association proposes to fund the cost  
7.31 of pursuing the construction defect claims; and

8.1 (2) obtain the approval of owners of units to which a majority of the total votes in the  
8.2 association are allocated. Votes allocated to units owned by the declarant, an affiliate of the  
8.3 declarant, or a mortgagee who obtained ownership of the unit through a foreclosure sale  
8.4 are excluded. The association may obtain the required approval by a vote at an annual or  
8.5 special meeting of the members or, if authorized by the statute under which the association  
8.6 is created and taken in compliance with that statute, by a vote of the members taken by  
8.7 electronic means or mailed ballots. If the association holds a meeting and voting by electronic  
8.8 means or mailed ballots is authorized by that statute, the association shall also provide for  
8.9 voting by those methods. Section 515B.3-110(c) applies to votes taken by electronic means  
8.10 or mailed ballots, except that the votes must be used in combination with the vote taken at  
8.11 a meeting and are not in lieu of holding a meeting, if a meeting is held, and are considered  
8.12 for purposes of determining whether a quorum was present. Proxies may not be used for a  
8.13 vote taken under this paragraph unless the unit owner executes the proxy after receipt of  
8.14 the notice required under subsection ~~(d)~~ (f)(1) and the proxy expressly references this notice.

8.15 ~~(e)~~ (g) The association may intervene in a litigation or arbitration involving a construction  
8.16 defect claim or assert a construction defect claim as a counterclaim, crossclaim, or third-party  
8.17 claim before complying with subsections ~~(d)~~ (f)(1) and ~~(d)~~ (f)(2) but the association's  
8.18 complaint in an intervention, counterclaim, crossclaim, or third-party claim shall be dismissed  
8.19 without prejudice unless the association has complied with the requirements of subsection  
8.20 ~~(d)~~ (f) within 90 days of the association's commencement of the complaint in an intervention  
8.21 or the assertion of the counterclaim, crossclaim, or third-party claim.

8.22 **EFFECTIVE DATE.** This section is effective January 1, 2023.