

Subject Health maintenance organization transactions

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Article 1: Oversight of Health Maintenance Organization Transactions

This article requires health maintenance organizations (HMOs) to comply with certain statutes that currently apply to insurers and require reports of acquisitions and dispositions of assets, require statements on mergers and acquisitions to be filed, authorize approval or disapproval of mergers and acquisitions, and establish other requirements.

Section Description - Article 1: Oversight of Health Maintenance Organization Transactions

1 **Oversight of transactions.**
Adds § 62D.221.

Subd. 1. Insurance provisions applicable to health maintenance organizations. Makes health maintenance organizations subject to the following sections that currently apply to insurers, and requires HMOs to comply with those sections: sections 60A.135, 60A.136, 60A.137 (requiring reports of material acquisitions and dispositions of assets and revisions of ceded reinsurance agreements); 60A.16, 60A.161 (mergers and consolidations, insurer domestication and conversion); 60D.17 (filing requirements when acquiring control or merging with a domestic insurer); 60D.18 (requirements for other acquisitions, including preacquisition notification and a waiting period); 60D.20 (standards and management of an insurer within a holding company system). Also requires HMOs to comply with certain requirements in Minnesota Rules, chapter 2720. Also prohibits acquisition of all or substantially all of the assets of an HMO unless the person files with the commissioner of health the information required under section 60D.17 and the acquisition has been approved by the commissioner.

Subd. 2. Conversion transactions. If notice to the commissioner of health is required under subdivision 1, requires an HMO to include with the notice, information on the plan for a conversion benefit entity if the reportable transaction qualifies as a conversion transaction. Allows the commissioner to

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consider information on the conversion transaction and conversion benefit entity in any actions taken under subdivision 1.

Article 2: Nonprofit Health Coverage Entity Conversion Transactions

This article prohibits a nonprofit health coverage entity from entering into certain conversion transactions, establishes requirements for conversion transactions by nonprofit health coverage entities, provides for enforcement by the attorney general, and authorizes the commissioner to conduct analyses and issue reports on the impact of certain transactions on health care access, cost, and quality, and market consolidation.

Section Description - Article 2: Nonprofit Health Coverage Entity Conversion Transactions

1 Definitions.

Adds § 145D.30. Defines terms for sections governing nonprofit health coverage entity conversion transactions: commissioner, control, conversion benefit entity, conversion transaction, corporation, director, family member, full and fair value, key employee, nonprofit health coverage entity, officer, public benefit assets, and related organization.

2 Certain conversion transactions prohibited.

Adds § 145D.31. Prohibits a nonprofit health coverage entity from entering into a conversion transaction if:

- doing so would result in less than full and fair market value of all public benefit assets remaining dedicated to the public benefit; or
- an individual who has been an executive of the nonprofit health coverage entity, or a family member, has a financial interest in the entity to which public benefit assets are transferred, or in an entity with a business relationship with the entity to which public benefit assets are transferred; or receives financial benefit from the entity to which public benefit assets are transferred, or from an entity with a business relationship with the entity to which public benefit assets are transferred.

3 Requirements for nonprofit health coverage entity conversion transactions.

Adds § 145D.32.

Subd. 1. Notice. Before entering into a conversion transaction, requires a nonprofit health coverage entity to notify the attorney general and include the

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listed information in the notice. Also requires the entity to provide the notice to the commissioner of health or commissioner of commerce, as applicable.

Subd. 2. Nonprofit health coverage entity requirements. Before entering into a conversion transaction, requires the nonprofit health coverage entity to ensure:

- the transaction complies with chapters 317A and 501B;
- the transaction does not involve or constitute a breach of charitable trust;
- the entity will receive full and fair value for its public benefit assets;
- the value of the assets to be transferred has not been manipulated in a way to cause the value of the assets to decrease;
- the proceeds of the transaction will be used in a manner that is consistent with the public benefit for which the assets are held by the nonprofit health coverage entity;
- the transaction will not result in a breach of fiduciary duty; and
- the conversion benefit entity receiving the value of the public benefit assets meets the requirements in section 145D.33.

Subd. 3. Listening sessions and public comment. Allows the attorney general or commissioner to hold public listening sessions and solicit public comments regarding the proposed conversion transaction.

Subd. 4. Waiting period. Prohibits a nonprofit health coverage entity from entering into a conversion transaction until 90 days after the entity provided notice as required under subdivision 1. Allows the attorney general to waive all or part of the waiting period or extend the waiting period for an additional 90 days by notifying the nonprofit health coverage entity. Suspends these time periods while an investigation into the transaction is pending or while a request for additional information is outstanding.

Subd. 5. Transfer of value of assets required. As part of a conversion transaction, requires the nonprofit health coverage entity to transfer the entirety of the full and fair value of its public benefit assets to one or more conversion benefit entities.

Subd. 6. Funds restricted for a particular purpose. Requires a nonprofit health coverage entity to comply with requirements for funds that are restricted for a particular purpose.

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4 Conversion benefit entity requirements.

Adds § 145D.33. Establishes requirements a conversion benefit entity must meet to be able to have the full and fair value of a nonprofit health coverage entity's public benefit assets transferred to it as part of a conversion transaction.

Subd. 1. Requirements. In order to receive the value of a nonprofit health coverage entity's public benefit assets, requires the conversion benefit entity to be a domestic, nonprofit corporation, nonprofit limited liability company, or wholly owned subsidiary thereof, that is also exempt under section 501(c)(3); have procedures in place to prohibit conflicts of interest; operate to benefit the health of the people of this state; have in place certain procedures related to officers, directors, and key employees; not provide financial benefit to an entity to which the nonprofit health coverage entity transfers public benefit assets or to a related organization; and not have certain individuals as officers, directors, or key employees.

Subd. 2. Review and approval. Requires the commissioner to review and approve a conversion benefit entity before it receives the value of public benefit assets. Lists criteria that must be met for the conversion benefit entity to be approved, and allows the commissioner to hold a public hearing as part of the review of the conversion benefit entity's governance.

Subd. 3. Community advisory committee. Requires the commissioner to establish a community advisory committee for a conversion benefit entity receiving the value of public benefit assets, and lists duties for the advisory committee.

5 Enforcement and remedies.

Adds § 145D.34.

Subd. 1. Investigation. Provides the attorney general has the powers in section 8.31, and that this subdivision does not limit the powers of the attorney general under other law. States an approval by the commissioner for regulatory purposes does not impair or inform the attorney general's authority.

Subd. 2. Enforcement and penalties. Allows the attorney general to bring an action to enjoin or unwind a conversion transaction or seek other equitable relief to protect the public interest, if the nonprofit health coverage entity or conversion transaction violates sections 145D.30 to 145D.33 or the conversion transaction is contrary to the public interest or if the entities involved in the conversion transaction fail to provide timely information to the attorney general or commissioner. Lists factors informing whether a conversion transaction is contrary to the public interest. Establishes civil penalties for an officer, director,

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or other executive found to have violated sections 145D.30 to 145D.33, and for an entity that is a party to or materially participated in a conversion transaction found to have violated sections 145D.30 to 145D.33. Allows a court to award reasonable attorney fees and costs.

Subd. 3. Commissioner of health; data and research. Requires the commissioner of health to provide the attorney general, upon request, with data and research on market trends, impacts on prices and outcomes, public health and population health considerations, and health care access, to be used to evaluate whether a conversion transaction is contrary to the public interest.

Subd. 4. Failure to take action. Provides failure by the attorney general to take action under this section does not constitute approval of the conversion transaction or waiver, and does not prevent the attorney general from taking action in similar circumstances in the future.

6 Data practices.

Adds § 145D.36. Provides section 13.65 (classifying data held by the attorney general's office) applies to data submitted to the attorney general under sections 145D.30 to 145D.33, and section 13.39 (classifying civil investigation data) applies to data held by the commissioner under those sections. Allows the attorney general or commissioner to make confidential or protected nonpublic data accessible to a law enforcement agency if it is determined that access aids the law enforcement process.

7 Commissioner of health; reports and analysis.

Adds § 145D.36. Allows the commissioner to use certain data and information to analyze the aggregate impact of nonprofit health care entity transactions on health care access, quality, and costs, and health care market consolidation. Requires the commissioner to issue periodic public reports on the number and type of conversion transactions subject to sections 145D.30 to 145D.33 and the impact of these transactions on health care costs, quality, and competition in Minnesota.

8 Relation to other law.

Adds § 145D.37. Provides sections 145D.30 to 145D.36 are in addition to and do not affect or limit powers and responsibilities of a health maintenance organization, a service plan corporation, a conversion benefit entity, the attorney general, the commissioner of health, or the commissioner of commerce under existing law. States nothing in sections 145D.30 to 145D.36 authorizes a nonprofit health coverage entity to enter into a conversion transaction not permitted under chapter 317A, 501B, or other law.

Article 3: Other Provisions

This article amends other statutes to conform with article 2.

Section	Description - Article 3: Other Provisions
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| 1 | Application of other law.
Adds § 62C.045. Provides sections 145D.30 to 145D.37 apply to service plan corporations operating under chapter 62C. |
| 2 | Application of other law.
Adds subd. 5a to § 62D.22. Provides sections 145D.30 to 145D.37 apply to nonprofit health maintenance organizations operating under chapter 62D. |
| 3 | Definitions.
Amends § 145D.01, subd. 1. Provides the definitions in this subdivision apply only to this section and section 145D.02, and not to all of chapter 145D. |
| 4 | When required.
Amends § 317A.811, subd. 1. Adds nonprofit health coverage entities to the nonprofit corporations that must provide notice to the attorney general if they intend to dissolve, merge, consolidate, or convert, or transfer all or substantially all of their assets. |



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