

# Chapter 66

2023 Regular Session

**Subject** Health care entity transactions**Bill** H.F. 402**Analyst** Elisabeth Klarqvist**Date** June 27, 2023

## Overview

This act establishes notice and review requirements for health care entities seeking to enter into a transaction and authorizes the attorney general to seek relief if a health care entity or transaction violates the notice and review requirements or is contrary to the public interest. Additionally, the act requires health care entities to report data on certain smaller transactions to the commissioner of health. It also extends the moratorium on conversion transactions by nonprofit service plan corporations and nonprofit health maintenance organizations to July 1, 2026; limits the ownership or control of University of Minnesota health care facilities; and requires the commissioner of health to study and develop recommendations on the regulation of transactions involving nonprofit and for-profit health maintenance organizations.

## Summary

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| 1 | <p><b>Restricted uses of the all-payer claims data.</b></p> <p>Amends § 62U.04, subd. 11. Modifies the allowable uses of data in the all-payer claims database, to allow the commissioner to use the data to analyze the impact of health care transactions on health care costs, market consolidation, and quality.</p>   |
| 2 | <p><b>Requirements for certain health care entity transactions.</b></p> <p>Adds § 145D.01. Establishes notice and review requirements for health care entities seeking to enter into a transaction that meets certain criteria and authorizes the attorney general to seek relief if a health care entity or transaction violates this section or is contrary to the public interest.</p> <p><b>Subd. 1. Definitions.</b> Defines terms for this chapter: captive professional entity, commissioner, control, health care entity, health care provider, health care provider group practice, hospital, medical foundation, and transaction. Also lists actions that are not included in the definition of transaction.</p> |

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**Subd. 2. Notice required.** Para. (a) provides the notice requirements in this subdivision apply to a transaction in which the health care entity involved in the transaction has average revenue of at least \$80,000,000 per year, or an entity created by the transaction is projected to have average revenue of at least \$80,000,000 per year when operating at full capacity.

Para. (b) requires a health care entity, at least 60 days before the proposed completion date of a transaction, to provide notice to the attorney general and the commissioner of health and comply with this subdivision.

Para. (c) requires a health care entity to affirmatively disclose the listed information to the attorney general and commissioner, at least 60 days before the proposed completion date of the transaction.

Para. (d) requires a health care entity to affirmatively submit the listed documents to the attorney general and commissioner, at least 60 days before the proposed completion date of the transaction.

Paras (e) and (f) allow the attorney general to extend the notice and waiting period for an additional 90 days or waive all or any part of the waiting period and disclosure or submission requirements.

Para. (g) allows the attorney general or commissioner to hold public listening sessions to obtain input on the transaction.

Para. (h) allows the attorney general or commissioner to bring an action in district court to compel compliance with the notice, waiting period, disclosure, and submission requirements.

**Subd. 3. Prohibited transactions.** Prohibits a health care entity from entering into a transaction that will substantially lessen competition or tend to create a monopoly or monopsony.

**Subd. 4. Additional requirements for nonprofit health care entities.** Requires a nonprofit health care entity, or a subsidiary of a nonprofit health care entity, to comply with the listed requirements before entering into a transaction.

**Subd. 5. Attorney general enforcement and supplemental authority.** Allows the attorney general to bring an action in district court to enjoin or unwind a transaction or seek other relief if a health care entity or transaction violates this section, if the transaction is contrary to the public interest, or both. Lists factors informing whether a transaction is contrary to the public interest. Allows the attorney general to enforce this section under section 8.31 (section 8.31 includes attorney general authority to investigate violations of law, seek injunctive relief, and impose civil penalties). States that a court may enjoin or unwind a

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	transaction or provide other relief if the entities involved in the transaction do not provide required information to the attorney general or commissioner. Requires the commissioner to provide certain data and research to the attorney general, upon request, for the attorney general to use when determining whether a transaction is contrary to the public interest.
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**Subd. 6. Supplemental authority of commissioner.** Allows the commissioner to use data submitted under this section or under other law to analyze the impact of health care transactions on health care access, market consolidation, and health care quality. Requires the commissioner to issue periodic public reports on transactions subject to this section and their impacts on health care cost, quality, and competition.

**Subd. 7. Classification of data.** Provides that section 13.39 applies to data provided under this section to the commissioner or attorney general (section 13.39 classifies data collected as part of an investigation as protected nonpublic data or confidential data during the investigation and public when the investigation is inactive, and provides for disclosure of data while a legal action is pending). Allows the attorney general or commissioner to share certain confidential or protected nonpublic data with law enforcement agencies to aid the law enforcement process.

**Subd. 8. Relation to other law.** Provides the powers and authority under this section are in addition to the rights, powers, and authority in other law, and provides nothing in this section suspends obligations imposed by other laws on entities involved in a transaction.

This section is effective the day following final enactment and applies to transactions completed on or after that date.

3	<b>Data reporting of certain health care transactions.</b>
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	Adds § 145D.02. Provides the reporting requirements in this section apply to transactions in which a health care entity has average revenue between \$10,000,000 and \$80,000,000 per year, or transactions that will result in an entity projected to have revenue between \$10,000,000 and \$80,000,000 per year once operating at full capacity. For these transactions, requires a health care entity to provide the listed information about the transaction and the entities involved in the transaction to the commissioner at least 30 days before the transaction's proposed completion date, or within ten business days of the date the parties anticipate entering into the transaction if the transaction's expected completion is within less than 30 days. Allows the commissioner to notify a health care entity if any required information is not submitted. Classifies data submitted under this section as private data on individuals or nonpublic data, and allows the commissioner to share any not public
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	data with the attorney general to aid in the investigation and review of the transaction. Provides that health care entities required to submit information under section 145D.01 are not required to submit information under this section. Requires the commissioner to use data collected under this section to analyze health care transactions in Minnesota and their impacts on health care access, costs, and quality and to develop recommendations for improvements.
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This section is effective January 1, 2024, and applies to transactions completed on or after that date.

4	<b>Ownership or control of University of Minnesota health care facilities.</b>
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Adds § 309.715. States that the importance of the University of Minnesota health care facilities to the state must be recognized, and requires the University of Minnesota health care facilities to remain dedicated to the university's public health care mission. Prohibits the University of Minnesota health care facilities from being owned or controlled by a for-profit entity or by an out-of-state entity unless the attorney general, in consultation with the commissioner of health and the Board of Regents, determines ownership or control by a for-profit entity or out-of-state entity is in the public interest. Defines University of Minnesota health care facilities as M Health Fairview University (West Bank), Masonic Children's Hospital, and University of Minnesota Medical Center (East Bank).

This section is effective the day following final enactment and applies to transactions related to transferring ownership or control of University of Minnesota health care facilities completed on or after that date.

5	<b>Moratorium on conversion transactions.</b>
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Amends Laws 2017, First Special Session ch. 6, art. 5, § 11, as amended. Extends the expiration date for the moratorium on conversion transactions by nonprofit service plan corporations and nonprofit health maintenance organizations to July 1, 2026. (In current law the moratorium expires July 1, 2023.) This section is effective the day following final enactment.

6	<b>Study and recommendations; nonprofit health maintenance organization conversions and other transactions.</b>
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Requires the commissioner of health to study and make recommendations on the regulation of conversions, mergers, transfers of assets, and other transactions affecting nonprofit and for-profit health maintenance organizations. Lists elements the recommendations must address. In conducting the study, allows the commissioner to use data the commissioner already holds from health maintenance organizations and health carriers, to consult with the commissioner of human services and commissioner of commerce, and to enter into contracts for professional or technical services. Requires the commissioner to seek public comments on the

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	regulation of conversion transactions. Requires preliminary findings to be submitted to the chairs of certain legislative committees by January 15, 2024, and requires a final report and recommendations to be submitted to the legislature by June 30, 2024.
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