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HOUSE FILE NO. 120

FIRST COMMITTEE ENGROSSMENT

January 15, 2009
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The bill was read for the first time and referred to the Committee on Health Care and Human Services Policy and Oversight
February 26, 2009
Committee Recommendation and Adoption of Report:
To Pass as Amended and re-referred to the Committee on Commerce and Labor
March 26, 2009
Committee Recommendation and Adoption of Report:
To Pass and re-referred to the Committee on Civil Justice
March 30, 2009
Committee Recommendation and Adoption of Report:
To Pass and re-referred to the Committee on Finance

Referred by Chair to Health Care and Human Services Finance Division.
April 15, 2009
Returned to the Committee on Finance as Amended.

1.1 A bill for an act
1.2 relating to health; establishing oversight for health care cooperative arrangements;
1.3 increasing access to health care services in rural areas; appropriating money;
1.4 proposing coding for new law in Minnesota Statutes, chapter 62R.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[62R.09] ANTITRUST IMMUNITY.**

1.7 Subdivision 1. **Intent; purpose.** The legislature finds that the goals of controlling
1.8 health care costs and improving the quality of and access to health care services in rural
1.9 areas are significantly enhanced by the development of health care cooperatives created
1.10 under this chapter. To promote health care cooperative arrangements, it is necessary for the
1.11 cooperatives to collectively negotiate on behalf of their members. Although negotiations
1.12 may raise competitive issues, the legislature finds that properly supervised health care
1.13 cooperative negotiations will enhance the delivery of health care in rural markets. The
1.14 legislature further finds that by establishing a system of review and supervision of health
1.15 care cooperative contractual negotiations competition is preserved. The purpose of this
1.16 legislation is to clarify the provisions in this chapter to ensure that health care cooperative
1.17 arrangements under section 62R.06 are not in violation of state or federal antitrust law.

1.18 Subd. 2. **Review and approval; monitoring.** (a) The commissioner shall review
1.19 and authorize contracts and business or financial arrangements under section 62R.06,
1.20 subdivision 1. All contracts and business or financial arrangements must be submitted on
1.21 an application for approval to the commissioner.

1.22 (b) Within 30 days after receiving an application, the commissioner may request
1.23 additional information that is necessary to complete the review required under this section.
1.24 If the commissioner does not request additional information and does not act within

2.1 60 days after receipt of an application, the application shall be deemed approved. If
2.2 the commissioner requests additional information and does not act within 60 days of
2.3 receiving additional information sufficient to evaluate the application, as determined by
2.4 the commissioner, the application shall be deemed approved. The commissioner shall not
2.5 deny any application unless the commissioner determines, using the criteria in paragraph
2.6 (g), that: (1) the anticompetitive effects of the arrangement on the marketplace exceed
2.7 the procompetitive effects or efficiencies, or that any price agreements included in the
2.8 arrangement are not necessary to achieve the efficiencies that are expected to result from
2.9 the arrangement; or (2) the applicant has not provided complete or sufficient information
2.10 requested by the commissioner to evaluate the impact of the proposed arrangement on the
2.11 health care marketplace.

2.12 (c) The commissioner may collect information from other parties, such as health
2.13 plan companies or other health care providers operating in the same geographic area as the
2.14 health care cooperative, to assist in evaluating the impact of the proposed arrangement
2.15 on the health care marketplace. Data collected from health plan companies and health
2.16 care providers under this paragraph are nonpublic data or private data on individuals, as
2.17 defined in section 13.02.

2.18 (d) The commissioner may solicit public comment on the impact of the proposed
2.19 arrangement.

2.20 (e) The commissioner may condition approval of a proposed arrangement on a
2.21 modification of all or part of the arrangement to eliminate any restriction on competition
2.22 that is not reasonably related to the goals of improving health care access or quality. The
2.23 commissioner may also establish conditions for approval that are reasonably necessary
2.24 to protect against abuses of private economic power and to ensure that the arrangement
2.25 has oversight by the state.

2.26 (f) The commissioner shall monitor arrangements approved under this section to
2.27 ensure that the arrangement remains in compliance with the conditions of approval. The
2.28 commissioner may revoke an approval upon a finding that the arrangement is not in
2.29 substantial compliance with the terms of the application or the conditions of approval.

2.30 (g) In evaluating applications received under this section, the commissioner shall
2.31 consider whether:

2.32 (1) the arrangement is likely to produce significant efficiencies that benefit
2.33 consumers, such as cost savings or improvements in quality of or access to care;

2.34 (2) the arrangement is likely to have any anticompetitive effects on the marketplace;
2.35 and

3.1 (3) the potential anticompetitive effects outweigh the procompetitive efficiencies
3.2 resulting from the arrangement.

3.3 Subd. 3. **Applications.** (a) Applications for approval under this section must
3.4 include a detailed description of the proposed arrangement.

3.5 (b) The application must include:

3.6 (1) the identities of all the parties to the arrangement;

3.7 (2) the participation rules for the cooperative, including the terms and conditions
3.8 under which participating providers may be members of the cooperative;

3.9 (3) a description of the geographic areas served by the cooperative and the products
3.10 provided, and a list of competing providers that are not members of the cooperative;

3.11 (4) a description of any restriction on participating members of the cooperative
3.12 entering into other contracts with payers; and

3.13 (5) a description of the increased efficiency, improved health care access, improved
3.14 health care quality, or increased market competition that will result from the arrangement.

3.15 (c) Data on providers collected under this section are private data on individuals or
3.16 nonpublic data, as defined in section 13.02.

3.17 Subd. 4. **Application fee.** When submitting an application to the commissioner, a
3.18 health care cooperative shall pay a fee of $2,000 for the commissioner's cost of reviewing
3.19 and monitoring the arrangement. Revenue received by the commissioner under this section
3.20 shall be appropriated to the commissioner for the purpose of administering this section.

3.21 Sec. 2. **[62R.10] ORGANIZATION OF NEW HEALTH CARE COOPERATIVES**
3.22 **PROHIBITED.**

3.23 A new health care cooperative may not organize under this chapter unless authorized
3.24 by a law enacted after the effective date of this section.