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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2839

02/20/2018 Authored by Halverson, Rosenthal, Ward, Freiberg, Hortman and others
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to health; requiring health maintenance organizations that are corporations
1.3 to be organized as nonprofit corporations in order to operate in the state; establishing
1.4 requirements for the use of net earnings of nonprofit health maintenance
1.5 organizations; amending Minnesota Statutes 2016, section 62D.12, by adding a
1.6 subdivision; Minnesota Statutes 2017 Supplement, sections 62D.02, subdivision
1.7 4; 62D.03, subdivision 1; 62D.05, subdivision 1; 62D.06, subdivision 1; 62D.19;
1.8 62E.02, subdivision 3.

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

1.10 Section 1. Minnesota Statutes 2017 Supplement, section 62D.02, subdivision 4, is amended
1.11 to read:

1.12 Subd. 4. Health maintenance organization. "Health maintenance organization" means
1.13 a ~~foreign or domestic~~ nonprofit corporation organized under chapter 317A, or a local
1.14 governmental unit as defined in subdivision 11, controlled and operated as provided in
1.15 sections 62D.01 to 62D.30, which provides, either directly or through arrangements with
1.16 providers or other persons, comprehensive health maintenance services, or arranges for the
1.17 provision of these services, to enrollees on the basis of a fixed prepaid sum without regard
1.18 to the frequency or extent of services furnished to any particular enrollee.

1.19 EFFECTIVE DATE. This section is effective January 1, 2019.

1.20 Sec. 2. Minnesota Statutes 2017 Supplement, section 62D.03, subdivision 1, is amended
1.21 to read:

1.22 Subdivision 1. Certificate of authority required. Notwithstanding any law of this state
1.23 to the contrary, any ~~foreign or domestic~~ nonprofit corporation organized to do so or a local
1.24 governmental unit may apply to the commissioner of health for a certificate of authority to

2.1 establish and operate a health maintenance organization in compliance with sections 62D.01
 2.2 to 62D.30. No person shall establish or operate a health maintenance organization in this
 2.3 state, nor sell or offer to sell, or solicit offers to purchase or receive advance or periodic
 2.4 consideration in conjunction with a health maintenance organization or health maintenance
 2.5 contract unless the organization has a certificate of authority under sections 62D.01 to
 2.6 62D.30.

2.7 **EFFECTIVE DATE.** This section is effective January 1, 2019.

2.8 Sec. 3. Minnesota Statutes 2017 Supplement, section 62D.05, subdivision 1, is amended
 2.9 to read:

2.10 Subdivision 1. **Authority granted.** Any nonprofit corporation or local governmental
 2.11 unit may, upon obtaining a certificate of authority as required in sections 62D.01 to 62D.30,
 2.12 operate as a health maintenance organization.

2.13 **EFFECTIVE DATE.** This section is effective January 1, 2019.

2.14 Sec. 4. Minnesota Statutes 2017 Supplement, section 62D.06, subdivision 1, is amended
 2.15 to read:

2.16 Subdivision 1. **Governing body composition; enrollee advisory body.** The governing
 2.17 body of any health maintenance organization which is a nonprofit corporation may include
 2.18 enrollees, providers, or other individuals; provided, however, that after a health maintenance
 2.19 organization which is a nonprofit corporation has been authorized under sections 62D.01
 2.20 to 62D.30 for one year, at least 40 percent of the governing body shall be composed of
 2.21 enrollees and members elected by the enrollees and members from among the enrollees and
 2.22 members. For purposes of this section, "member" means a consumer who receives health
 2.23 care services through a self-insured contract that is administered by the health maintenance
 2.24 organization or its related third-party administrator. The number of members elected to the
 2.25 governing body shall not exceed the number of enrollees elected to the governing body. An
 2.26 enrollee or member elected to the governing board may not be a person:

2.27 (1) whose occupation involves, or before retirement involved, the administration of
 2.28 health activities or the provision of health services;

2.29 (2) who is or was employed by a health care facility as a licensed health professional;
 2.30 or

3.1 (3) who has or had a direct substantial financial or managerial interest in the rendering
 3.2 of a health service, other than the payment of a reasonable expense reimbursement or
 3.3 compensation as a member of the board of a health maintenance organization.

3.4 After a health maintenance organization which is a local governmental unit has been
 3.5 authorized under sections 62D.01 to 62D.30 for one year, an enrollee advisory body shall
 3.6 be established. The enrollees who make up this advisory body shall be elected by the enrollees
 3.7 from among the enrollees.

3.8 **EFFECTIVE DATE.** This section is effective January 1, 2019.

3.9 Sec. 5. Minnesota Statutes 2016, section 62D.12, is amended by adding a subdivision to
 3.10 read:

3.11 **Subd. 8a. Net earnings.** All net earnings of the nonprofit health maintenance organization
 3.12 shall be devoted to the nonprofit purposes of the health maintenance organization in providing
 3.13 comprehensive health care. No health maintenance organization shall provide for the
 3.14 payment, whether directly or indirectly, of any part of its net earnings, to any person as a
 3.15 dividend or rebate; provided, however, that the health maintenance organizations may make
 3.16 payments to providers or other persons based upon the efficient provision of services or as
 3.17 incentives to provide quality care. The commissioner of health shall, pursuant to sections
 3.18 62D.01 to 62D.30, revoke the certificate of authority of any health maintenance organization
 3.19 in violation of this subdivision.

3.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.21 Sec. 6. Minnesota Statutes 2017 Supplement, section 62D.19, is amended to read:

3.22 **62D.19 UNREASONABLE EXPENSES.**

3.23 No health maintenance organization shall incur or pay for any expense of any nature
 3.24 which is unreasonably high in relation to the value of the service or goods provided. The
 3.25 commissioner of health shall implement and enforce this section by rules adopted under
 3.26 this section.

3.27 In an effort to achieve the stated purposes of sections 62D.01 to 62D.30; in order to
 3.28 safeguard the underlying nonprofit status of health maintenance organizations; and to ensure
 3.29 that the payment of health maintenance organization money to major participating entities
 3.30 results in a corresponding benefit to the health maintenance organization and its enrollees,
 3.31 when determining whether an organization has incurred an unreasonable expense in relation
 3.32 to a major participating entity, due consideration shall be given to, in addition to any other

4.1 appropriate factors, whether the officers and trustees of the health maintenance organization
4.2 have acted with good faith and in the best interests of the health maintenance organization
4.3 in entering into, and performing under, a contract under which the health maintenance
4.4 organization has incurred an expense. The commissioner has standing to sue, on behalf of
4.5 a health maintenance organization, officers or trustees of the health maintenance organization
4.6 who have breached their fiduciary duty in entering into and performing such contracts.

4.7 **EFFECTIVE DATE.** This section is effective January 1, 2019.

4.8 Sec. 7. Minnesota Statutes 2017 Supplement, section 62E.02, subdivision 3, is amended
4.9 to read:

4.10 Subd. 3. **Health maintenance organization.** "Health maintenance organization" means
4.11 a nonprofit corporation licensed and operated as provided in chapter 62D.

4.12 **EFFECTIVE DATE.** This section is effective January 1, 2019.

4.13 Sec. 8. **TRANSITION.**

4.14 (a) Beginning January 1, 2019, the commissioner of health shall only issue new
4.15 certificates of authority for health maintenance organizations that are nonprofit corporations
4.16 organized under Minnesota Statutes, chapter 317A, or local governmental units. A certificate
4.17 of authority for a health maintenance organization that: (1) is not a nonprofit corporation
4.18 organized under Minnesota Statutes, chapter 317A, or a local governmental unit; and (2) is
4.19 issued before January 1, 2019, shall expire 30 days after the last date on which health
4.20 maintenance contracts issued by that health maintenance organization expire.

4.21 (b) A health maintenance organization that is not a nonprofit corporation organized
4.22 under Minnesota Statutes, chapter 317A, or a local governmental unit shall not offer, sell,
4.23 issue, or renew health maintenance contracts after September 30, 2018.