

## CHAPTER 43A

## DEPARTMENT OF EMPLOYEE RELATIONS

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**43A.04 GENERAL POWERS AND RESPONSIBILITIES OF COMMISSIONER.**

*[For text of subs 1 to 12, see M.S.2006]*

Subd. 13. **Combined charities campaign.** (a) The commissioner shall administer the state employee combined charities campaign. This duty includes registration of combined charitable organizations under section 43A.50, and coordination of the process under which state employees contribute to combined charitable organizations.

(b) The commissioner, in consultation with other commissioners, shall appoint a voluntary board of state employees to oversee the conduct of an annual combined charities campaign. The board must, to the extent possible, represent a cross-section of state employee groups and geographic areas where state employees are located. The board shall provide direction to the commissioner's employee assigned to administer the annual campaign.

**History:** 2007 c 101 s 2

**43A.191 AGENCY AFFIRMATIVE ACTION PROGRAMS.**

*[For text of subs 1 and 2, see M.S.2006]*

Subd. 3. **Audits; sanctions and incentives.** (a) The commissioner shall annually audit the record of each agency to determine the rate of compliance with affirmative action requirements.

(b) By March 1 of each odd-numbered year, the commissioner shall submit a report on affirmative action progress of each agency and the state as a whole to the governor and to the Finance Committee of the senate, the Ways and Means Committee of the house of representatives, the Governmental Operations Committees of both houses of the legislature, and the Legislative Coordinating Commission. The report must include noncompetitive appointments made under section 43A.08, subdivision 2a, or 43A.15, subdivisions 3 to 7, 10, and 12, and cover each agency's rate of compliance with affirmative action requirements.

(c) An agency that does not meet its hiring goals must justify its nonaffirmative action hires in competitive and noncompetitive appointments according to criteria issued by the Department of Employee Relations. "Missed opportunity" includes failure to justify a non-affirmative action hire. An agency must have 25 percent or less missed opportunities in competitive appointments and 25 percent or less missed opportunities in appointments made under sections 43A.08, subdivisions 1, clauses (9), (11), and (16); and 2a; and 43A.15, subdivisions 3, 10, 12, and 13. In addition, an agency shall:

(1) demonstrate a good faith effort to recruit protected group members by following an active recruitment plan;

(2) implement a coordinated retention plan; and

(3) have an established complaint resolution procedure.

(d) The commissioner shall develop reporting standards and procedures for measuring compliance.

(e) An agency is encouraged to develop other innovative ways to promote awareness, acceptance, and appreciation for diversity and affirmative action. These innovations will be considered when evaluating an agency's compliance with this section.

(f) An agency not in compliance with affirmative action requirements of this section must identify methods and programs to improve performance, to reallocate resources internally in order to increase support for affirmative action programs, and to submit program and resource reallocation proposals to the commissioner for approval. An agency must submit these proposals within 120 days of being notified by the commissioner that it is out of compliance with affirmative action requirements. The commissioner shall monitor quarterly the affirmative action programs of an agency found to be out of compliance.

(g) The commissioner shall establish a program to recognize an agency that has made significant and measurable progress in implementing an affirmative action plan.

**History:** 2007 c 35 s 1

#### 43A.23 CONTRACTING AUTHORITY.

Subdivision 1. **General.** (a) The commissioner is authorized to request proposals or to negotiate and to enter into contracts with parties which in the judgment of the commissioner are best qualified to provide service to the benefit plans. Contracts entered into are not subject to the requirements of sections 16C.16 to 16C.19. The commissioner may negotiate premium rates and coverage. The commissioner shall consider the cost of the plans, conversion options relating to the contracts, service capabilities, character, financial position, and reputation of the carriers, and any other factors which the commissioner deems appropriate. Each benefit contract must be for a uniform term of at least one year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. A carrier licensed under chapter 62A is exempt from the taxes imposed by chapter 297I on premiums paid to it by the state.

(b) All self-insured hospital and medical service products must comply with coverage mandates, data reporting, and consumer protection requirements applicable to the licensed carrier administering the product, had the product been insured, including chapters 62J, 62M, and 62Q. Any self-insured products that limit coverage to a network of providers or provide different levels of coverage between network and nonnetwork providers shall comply with section 62D.123 and geographic access standards for health maintenance organizations adopted by the commissioner of health in rule under chapter 62D.

(c) Notwithstanding paragraph (b), a self-insured hospital and medical product offered under sections 43A.22 to 43A.30 is not required to extend dependent coverage to an eligible employee's unmarried child under the age of 25 to the full extent required under chapters 62A and 62L. Dependent coverage must, at a minimum, extend to an eligible employee's unmarried child who is under the age of 19 or an unmarried child under the age of 25 who is a full-time student. The definition of "full-time student" for purposes of this paragraph includes any student who by reason of illness, injury, or physical or mental disability as documented by a physician is unable to carry what the educational institution considers a full-time course load so long as the student's course load is at least 60 percent of what otherwise is considered by the institution to be a full-time course load. Any notice regarding termination of coverage due to attainment of the limiting age must include information about this definition of "full-time student."

*[For text of subs 2 and 3, see M.S.2006]*

**History:** 2007 c 35 s 2; 2007 c 147 art 12 s 1

#### 43A.312 CENTER FOR HEALTH CARE PURCHASING IMPROVEMENT.

Subdivision 1. **Establishment; administration.** The commissioner of health shall establish and administer the Center for Health Care Purchasing Improvement as an administrative unit within the Department of Health. The Center for Health Care Purchasing Improvement shall support the state in its efforts to be a more prudent and efficient purchaser of quality health care services. The center shall aid the state in developing and using more common strategies and approaches for health care performance measurement and health care purchas-

ing. The common strategies and approaches shall promote greater transparency of health care costs and quality, and greater accountability for health care results and improvement. The center shall also identify barriers to more efficient, effective, quality health care and options for overcoming the barriers.

**Subd. 2. Staffing; duties; scope.** (a) The commissioner of health may appoint a director, and up to three additional senior-level staff or codirectors, and other staff as needed who are under the direction of the commissioner. The staff of the center are in the unclassified service.

(b) With the authorization of the commissioner of health, and in consultation or inter-agency agreement with the appropriate commissioners of state agencies, the director, or codirectors, may:

- (1) initiate projects to develop plan designs for state health care purchasing;
- (2) require reports or surveys to evaluate the performance of current health care purchasing strategies;
- (3) calculate fiscal impacts, including net savings and return on investment, of health care purchasing strategies and initiatives;
- (4) conduct policy audits of state programs to measure conformity to state statute or other purchasing initiatives or objectives;
- (5) support the Administrative Uniformity Committee under section 62J.50 and other relevant groups or activities to advance agreement on health care administrative process streamlining;
- (6) consult with the Health Economics Unit of the Department of Health regarding reports and assessments of the health care marketplace;
- (7) consult with the Department of Commerce regarding health care regulatory issues and legislative initiatives;
- (8) work with appropriate Department of Human Services staff and the Centers for Medicare and Medicaid Services to address federal requirements and conformity issues for health care purchasing;
- (9) assist the Minnesota Comprehensive Health Association in health care purchasing strategies;
- (10) convene medical directors of agencies engaged in health care purchasing for advice, collaboration, and exploring possible synergies;
- (11) contact and participate with other relevant health care task forces, study activities, and similar efforts with regard to health care performance measurement and performance-based purchasing; and
- (12) assist in seeking external funding through appropriate grants or other funding opportunities and may administer grants and externally funded projects.

**Subd. 3. Report.** The commissioner of health must report annually to the legislature and the governor on the operations, activities, and impacts of the center. The report must be posted on the Department of Health Web site and must be available to the public. The report must include a description of the state's efforts to develop and use more common strategies for health care performance measurement and health care purchasing. The report must also include an assessment of the impacts of these efforts, especially in promoting greater transparency of health care costs and quality, and greater accountability for health care results and improvement.

**History:** 2006 c 282 art 14 s 10; 2007 c 148 art 2 s 83

### **43A.318 PUBLIC EMPLOYEES GROUP LONG-TERM CARE INSURANCE PROGRAM.**

**Subdivision 1. Definitions.** (a) **Scope.** For the purposes of this section, the terms defined have the meaning given them.

(b) **Eligible person.** "Eligible person" means:

- (1) a person who is eligible for insurance and benefits under section 43A.24;

(2) a person who at the time of separation from employment was eligible to purchase coverage at personal expense under section 43A.27, subdivision 3, regardless of whether the person elected to purchase this coverage;

(3) a spouse of a person described in clause (1) or (2), regardless of the enrollment status in the program of the person described in clause (1) or (2); or

(4) a parent of a person described in clause (1), regardless of the enrollment status in the program of the person described in clause (1).

(c) **Program.** "Program" means the statewide public employees long-term care insurance program created under subdivision 2.

(d) **Qualified vendor.** "Qualified vendor" means an entity licensed or authorized to underwrite, provide, or administer group long-term care insurance benefits in this state.

*[For text of subd 2, see M.S.2006]*

Subd. 3. [Repealed, 2007 c 133 art 2 s 13]

*[For text of subs 4 and 5, see M.S.2006]*

**History:** 2007 c 133 art 2 s 5

#### 43A.346 POSTRETIREMENT OPTION.

Subdivision 1. **Definition.** For purposes of this section, "state employee" means a person currently occupying a civil service position in the executive or legislative branch of state government, the Minnesota State Retirement System, the Public Employees Retirement Association, or the Office of the Legislative Auditor, or a person employed by the Metropolitan Council.

Subd. 2. **Eligibility.** (a) This section applies to a state or Metropolitan Council employee who:

(1) for at least the five years immediately preceding separation under clause (2), has been regularly scheduled to work 1,044 or more hours per year in a position covered by a pension plan administered by the Minnesota State Retirement System or the Public Employees Retirement Association;

(2) terminates state or Metropolitan Council employment;

(3) at the time of termination under clause (2), meets the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfies requirements for the commencement of the retirement annuity or, for an employee under the unclassified employees retirement plan, meets the age and service requirements necessary to receive an unreduced retirement annuity from the plan and satisfies requirements for the commencement of the retirement annuity or elects a lump-sum payment; and

(4) agrees to accept a postretirement option position with the same or a different appointing authority, working a reduced schedule that is both (i) a reduction of at least 25 percent from the employee's number of regularly scheduled work hours; and (ii) 1,044 hours or less in state or Metropolitan Council service.

(b) For purposes of this section, an unreduced retirement annuity includes a retirement annuity computed under a provision of law which permits retirement, without application of an earlier retirement reduction factor, whenever age plus years of allowable service total at least 90.

*[For text of subs 3 to 10, see M.S.2006]*

**History:** 2007 c 134 art 11 s 4,5; 2007 c 148 art 2 s 45

#### 43A.49 VOLUNTARY UNPAID LEAVE OF ABSENCE.

(a) Appointing authorities in state government may allow each employee to take unpaid leaves of absence for up to 1,040 hours between June 1, 2007, and June 30, 2009. The 1,040

hour limit replaces, and is not in addition to, limits set in prior laws. Each appointing authority approving such a leave shall allow the employee to continue accruing vacation and sick leave, be eligible for paid holidays and insurance benefits, accrue seniority, and accrue service credit and credited salary in the state retirement plans as if the employee had actually been employed during the time of leave. An employee covered by the unclassified plan may voluntarily make the employee contributions to the unclassified plan during the leave of absence. If the employee makes these contributions, the appointing authority must make the employer contribution. If the leave of absence is for one full pay period or longer, any holiday pay shall be included in the first payroll warrant after return from the leave of absence. The appointing authority shall attempt to grant requests for the unpaid leaves of absence consistent with the need to continue efficient operation of the agency. However, each appointing authority shall retain discretion to grant or refuse to grant requests for leaves of absence and to schedule and cancel leaves, subject to the applicable provisions of collective bargaining agreements and compensation plans.

(b) To receive eligible service credit and credited salary in a defined benefit plan, the member shall pay an amount equal to the applicable employee contribution rates. If an employee pays the employee contribution for the period of the leave under this section, the appointing authority must pay the employer contribution. The appointing authority may, at its discretion, pay the employee contributions. Contributions must be made in a time and manner prescribed by the executive director of the Minnesota State Retirement Association.

**History:** 2007 c 35 s 3

#### **43A.50 STATE EMPLOYEE COMBINED CHARITIES CAMPAIGN REGISTRATION.**

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given them.

(b) "Registered combined charitable organization" means a federated funding organization:

(1) which is tax exempt under section 501(c)3 of the Internal Revenue Code of 1986, as amended through December 31, 1992 (hereinafter "Internal Revenue Code"), and to which contributions are deductible under section 170 of the Internal Revenue Code;

(2) which is properly registered with the attorney general of Minnesota to solicit contributions in Minnesota;

(3) which secures funds through the state employee combined charities campaign for distribution to 14 or more affiliated agencies, each of which must devote substantially all of its activities to providing health, welfare, social, or other services that benefit individuals in Minnesota and contiguous counties;

(4) which is governed either by an independent, voluntary board and at least 90 percent of the directors of the governing board live or work in Minnesota or contiguous counties or, if the charitable agencies are solely educational institutions which meet the requirements of paragraph (c), by a national board of directors that has a local advisory board composed of members who live or work in Minnesota or contiguous counties;

(5) which expended no more than 30 percent of total contributions received in the organization's accounting year last reported for management and general costs and fund-raising costs;

(6) which distributed at least 70 percent of total contributions received in the organization's accounting year last reported to affiliated agencies, programs, and designated agencies in Minnesota and contiguous counties or, if the charitable agencies are solely educational institutions which meet the requirements of paragraph (c), distributes at least 70 percent of the state employee combined charitable campaign income and revenue directly to Minnesota residents or schools using established eligibility criteria; and

(7) which has been registered with the commissioner of employee relations in accordance with this section.

Registered combined charitable organization includes a charitable organization organized by Minnesota state employees and their exclusive representatives for the purpose of providing grants to nonprofit agencies providing Minnesota residents with food or shelter if the charitable organization meets the requirements of clauses (1), (2), (4), (5), (6), and (7).

(c) "Affiliated agency" means a charitable agency that is represented by a federation and has an ongoing relationship with that federation which involves a review and monitoring process to ensure financial, managerial, and programmatic responsibility.

(d) "Charitable agency" means a governmental agency or an organization (1) which is tax exempt under section 501(c)3 of the Internal Revenue Code; (2) to which contributions are deductible under section 170 of the Internal Revenue Code; and (3) which is in compliance with the provisions of this chapter.

(e) "State employee combined charities campaign" means the annual state campaign that allows a state employee to authorize payroll deduction for the employee's contribution to a registered combined charitable organization, pursuant to section 16A.134.

(f) "Management and general costs" means costs as defined in section 309.50, subdivision 11.

(g) "Fund-raising costs" means costs as defined in section 309.50, subdivision 12.

(h) "Contiguous counties" means counties in Iowa, North Dakota, South Dakota, and Wisconsin that share a border with Minnesota.

**Subd. 2. Registration.** (a) A federated funding organization shall apply to the commissioner of employee relations by March 1 in order to be eligible to participate in the state employee combined charities campaign for that year.

(b) A federated funding organization must apply in the form prescribed by the commissioner of employee relations and shall provide the following:

(1) assurance of tax exempt status for the federated funding organization and each of the charitable agencies identified by the federated funding organization as an affiliated agency;

(2) assurance of proper registration with the attorney general of Minnesota to solicit contributions in the state of Minnesota for the federated funding organization and each of the charitable agencies identified by the federated funding organization as an affiliated agency. A copy of the registration letter in effect at the time of application for the state employee combined charities campaign must be available upon request;

(3) an affidavit signed by a duly constituted officer of the federated funding organization attesting to the fact that the federated funding organization and its affiliated agencies are in compliance with each of the provisions of this section;

(4) a list of the board of directors or local advisory board for the federated funding organization which identifies the members who live or work in Minnesota and contiguous counties;

(5) a list of the name and business address of each affiliated agency the federated funding organization supports;

(6) a list of any related organizations, as defined in section 317A.011, subdivision 18;

(7) the total contributions received in the organization's accounting year last reported and, from those contributions, the amounts expended by the federated funding organization for management and general costs and for fund-raising costs and the amount distributed to the affiliated agencies, programs, and designated agencies it supports; and

(8) a fee of \$100, or ten percent of the funds raised from state employees in the previous campaign, whichever is less. The fee for an organization which did not participate in the previous year's state employee campaign is \$100.

The commissioner may require submission of additional information needed to determine compliance with the provisions of this chapter.

(c) The commissioner shall register or not register the application of an organization and shall notify the organization of the decision by May 1. An organization whose application is denied has ten calendar days after receiving notice of the denial to appeal the decision

or file an amended application correcting the deficiency. The commissioner shall register or not register the organization within ten calendar days after receiving the appeal or amended application. If registration is denied a second time, the organization may appeal within five calendar days after receiving notice of the denial. A hearing shall be scheduled by the commissioner of employee relations and shall be held within 15 calendar days after receiving notice of the appeal. The parties may mutually agree to a later date. The provisions of chapter 14 do not apply to the hearing. The hearing shall be conducted in a manner considered appropriate by the commissioner. The commissioner shall make a determination within five calendar days after the hearing has been completed.

(d) Only organizations that are approved may participate in the state employee combined charities campaign for the year of approval and only contributions to approved organizations may be deducted from an employee's pay pursuant to section 16A.134. By July 15, the commissioner of employee relations shall notify the commissioner of finance in writing of the organizations registered under this section.

Subd. 3. **Related organization.** No two federated funding campaigns that are related organizations, as defined in section 317A.011, subdivision 18, may participate simultaneously in the state employee combined charities campaign.

Subd. 4. **Optional designations.** A registered combined charitable organization may offer the option of designating in writing that the amount deducted in section 16A.134 be designated to any charitable agency whether or not the charitable agency receives funds from the single, annual consolidated effort.

**History:** 2007 c 101 s 3