CHAPTER 62R
HEALTH CARE COOPERATIVES

62R.01 STATEMENT OF LEGISLATIVE PURPOSE AND INTENT.

The legislature finds that the goals of containing health care costs, improving the quality of health care, and increasing the access of Minnesota citizens to health care services reflected under chapters 62J and 62N may be further enhanced through the promotion of health care cooperatives. The legislature further finds that locally based and controlled efforts among health care providers, local businesses, units of local government, and health care consumers, can promote the attainment of the legislature's goals of health care reform, and takes notice of the long history of successful operations of cooperative organizations in this state. Therefore, in order to encourage cooperative efforts which are consistent with the goals of health care reform, including efforts among health care providers as sellers of health care services and efforts of consumers as buyers of health care services and health plan coverage, and to encourage the formation of and increase the competition among health plans in Minnesota, the legislature enacts the Minnesota Health Care Cooperative Act.

History: *1994 c 625 art 11 s 1*

62R.02 CITATION.

This chapter may be cited as the "Minnesota Health Care Cooperative Act."

History: *1994 c 625 art 11 s 2*

62R.03 APPLICABILITY OF OTHER LAWS.

Subdivision 1. **Minnesota Cooperative Law.** A health care cooperative is subject to chapter 308A unless otherwise provided in this chapter. After incorporation, a health care cooperative shall enjoy the powers and privileges and shall be subject to the duties and liabilities of other cooperatives organized under chapter 308A, to the extent applicable and except as limited or enlarged by this chapter. If any provision of this chapter conflicts with a provision of chapter 308A, the provision of this chapter takes precedence.

Subd. 2. **Health plan licensure and operation.** A health care network cooperative must be licensed as a health maintenance organization licensed under chapter 62D, a nonprofit health service plan corporation licensed under chapter 62C, or a community integrated service network licensed under chapter 62N, at the election of the health care network cooperative. The health care

network cooperative shall be subject to the duties and liabilities of health plans licensed pursuant to the chapter under which the cooperative elects to be licensed, to the extent applicable and except as limited or enlarged by this chapter. If any provision of any chapter under which the cooperative elects to be licensed conflicts with the provisions of this chapter, the provisions of this chapter take precedence. A health care network cooperative, upon licensure as provided in this subdivision, is a contributing member of the Minnesota Comprehensive Health Association, on the same basis as other entities having the same licensure.

Subd. 3. **Health provider cooperatives.** A health provider cooperative shall not be considered a mutual insurance company under chapter 60A, a health maintenance organization under chapter 62D, a nonprofit health services corporation under chapter 62C, or a community integrated service network under chapter 62N. A health provider network shall not be considered to violate any limitations on the corporate practice of medicine. Health care service contracts under section 62R.06 shall not be considered to violate section 62J.23.

History: *1994 c 625 art 11 s 3; 1997 c 225 art 2 s 62*

62R.04 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of this chapter, the terms defined in this section have the meanings given.

Subd. 2. **Health care cooperative.** "Health care cooperative" means a health care network cooperative or a health provider cooperative.

Subd. 3. **Health care network cooperative.** "Health care network cooperative" means a corporation organized under this chapter and licensed in accordance with section 62R.03, subdivision 2. A health care network cooperative shall not have more than 50,000 enrollees, unless exceeding the enrollment limit is necessary to comply with guaranteed issue or guaranteed renewal requirements of chapter 62L or section 62A.65.

Subd. 4. **Health provider cooperative.** "Health provider cooperative" means a corporation organized under this chapter and operated on a cooperative plan to market health care services to purchasers of those services.

Subd. 5. **Commissioner.** Unless otherwise specified, "commissioner" means the commissioner of health for a health care network cooperative licensed under chapter 62D or 62N and the commissioner of commerce for a health care network cooperative licensed under chapter 62C.

Subd. 6. **Health carrier.** "Health carrier" has the meaning provided in section 62A.011.

Subd. 7. **Health care providing entity.** "Health care providing entity" means a participating entity that provides health care to enrollees of a health care cooperative.

History: *1994 c 625 art 11 s 4*

62R.05 POWERS.

In addition to the powers enumerated under section 308A.201, a health care cooperative shall have all of the powers granted a nonprofit corporation under section 317A.161, except to the extent expressly inconsistent with the provisions of chapter 308A.

History: *1994 c 625 art 11 s 5*

62R.06 HEALTH CARE SERVICE CONTRACTS.

Subdivision 1. **Provider contracts.** A health provider cooperative and its licensed members may execute marketing and service contracts requiring the provider members to provide some or all of their health care services through the provider cooperative to the enrollees, members, subscribers, or insureds, of a health care network cooperative, community integrated service network, nonprofit health service plan, health maintenance organization, accident and health insurance company, or any other purchaser, including the state of Minnesota and its agencies, instruments, or units of local government. Each purchasing entity is authorized to execute contracts for the purchase of health care services from a health provider cooperative in accordance with this section. A contract between a provider cooperative and a purchaser may provide for payment by the purchaser to the health provider cooperative on a capitated or similar risk-sharing basis, by fee-for-service arrangements, or by other financial arrangements authorized under state law. Each contract between a provider cooperative and a purchaser shall be filed by the provider network cooperative with the commissioner of health and is subject to the provisions of section 62D.19.

Subd. 2. **No network limitation.** A health care network cooperative may contract with any health provider cooperative and may contract with any other licensed health care provider to provide health care services for its enrollees.

Subd. 3. **Restraint of trade.** Subject to section 62R.08, a health care provider cooperative is not a combination in restraint of trade, and any contracts or agreements between a health care provider cooperative and its members regarding the price the cooperative will charge to purchasers of its services, or regarding the prices the members will charge to the cooperative, or regarding the allocation of gains or losses among the members, or regarding the delivery, quality, allocation, or location of services to be provided, are not contracts that unreasonably restrain trade.

History: *1994 c 625 art 11 s 6; 1997 c 225 art 2 s 62; 1999 c 245 art 2 s 14*

62R.07 RELICENSURE.

(a) A health care network cooperative licensed under chapter 62C or 62D may relinquish that license and be granted a new license as a community integrated service network under chapter 62N in accordance with this section, provided that the cooperative meets all requirements for licensure as a network under chapter 62N, to the extent not expressly inconsistent with the provisions of chapter 308A.

(b) The relicensure shall be effective at the time specified in the plan of relicensure, which must not be earlier than the date upon which the previous license is surrendered.

(c) Upon the relicensure of the cooperative as a community integrated service network:

(1) all existing group and individual enrollee benefit contracts in force on the effective date of the relicensure shall continue in effect and with the same terms and conditions, notwithstanding the cooperative's new licensure as a network, until the date of each contract's next renewal or amendment, but no later than one year from the date of the relicensure. At this time, each benefit contract then in force must be amended to comply with all statutory and regulatory requirements for network benefit contracts as of that date; and

(2) all contracts between the cooperative and any health care providing entity, including a health care provider cooperative, in force on the effective date of relicensure shall remain in

effect under the cooperative's new licensure as a network until the date of the next renewal or amendment of that contract, but no later than one year from the date of relicensure.

(d) Except as otherwise provided in this section, nothing in the relicensure of a health care network cooperative shall in any way affect its corporate existence or any of its contracts, rights, privileges, immunities, powers or franchises, debts, duties or other obligations or liabilities.

History: *1994 c 625 art 11 s 7; 1997 c 225 art 2 s 62*

62R.08 PROHIBITED PRACTICES.

(a) It shall be unlawful for any person, company, or corporation, or any agent, officer, or employee thereof, to coerce or require any person to agree, either in writing or orally, not to join or become or remain a member of, any health care provider cooperative, as a condition of securing or retaining a contract for health care services with the person, firm, or corporation.

(b) It shall be unlawful for any person, company, or corporation, or any combination of persons, companies, or corporations, or any agents, officers, or employees thereof, to engage in any acts of coercion, intimidation, or boycott of, or any refusal to deal with, any health care providing entity arising from that entity's actual or potential participation in a health care network cooperative or health care provider cooperative.

(c) It shall be unlawful for any health care network cooperative, other than a health care network cooperative operating on an employed, staff model basis, to require that its participating providers provide health care services exclusively to or through the health care network cooperative. It shall be unlawful for any health care provider cooperative to require that its members provide health care services exclusively to or through the health care provider cooperative.

(d) It shall be unlawful for any health care provider cooperative to engage in any acts of coercion, intimidation, or boycott of, or any concerted refusal to deal with, any health plan company seeking to contract with the cooperative on a competitive, reasonable, and nonexclusive basis.

(e) The prohibitions in this section are in addition to any conduct that violates sections 325D.49 to 325D.66.

(f) This section shall be enforced in accordance with sections 325D.56 to 325D.65.

History: *1994 c 625 art 11 s 8*

62R.09 STATE OVERSIGHT AND SUPERVISION.

Subdivision 1. **Review and approval; monitoring.** (a) The commissioner of health shall review and authorize contracts and business or financial arrangements under section 62R.06, subdivision 1, and any modification, renewal, or extension of a contract or business or financial arrangement that previously has been approved. All contracts and business or financial arrangements, modifications, renewals, or extensions must be submitted on an application for approval to the commissioner.

(b) Within 30 days after receiving an application, the commissioner may request additional information that is necessary to complete the review required under this section. The commissioner must approve or deny an application within 60 days after receiving the application or within 60 days after receiving any additional information requested by the commissioner,

whichever is later. The commissioner must not deny an application unless the commissioner determines, using the criteria in paragraph (g), that:

(1) the anticompetitive effects of the arrangement on the marketplace exceed the procompetitive effects or efficiencies, or that any price agreements included in the arrangement are not necessary to achieve the efficiencies that are expected to result from the arrangement; or

(2) the applicant has not provided complete or sufficient information requested by the commissioner to evaluate the impact of the proposed arrangement on the health care marketplace.

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

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

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

(f) The commissioner shall actively monitor arrangements approved under this section to ensure that the arrangement remains in compliance with the conditions of approval. Upon request, the health care cooperative shall provide information to the commissioner regarding compliance. The commissioner may revoke an approval upon a finding that the arrangement is not in substantial compliance with the terms of the application or the conditions of approval.

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

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

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

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

Subd. 2. **Applications.** (a) Applications for approval under this section must include a detailed description of the proposed arrangement.

(b) The application must include:

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

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

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

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

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

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

Subd. 3. **Application fee.** When submitting an initial application to the commissioner, a health care cooperative shall pay a fee of $2,000 for the commissioner's cost of reviewing and monitoring the arrangement. When submitting an application for modification, renewal, or extension of a previously approved contract and business or financial arrangement, the health care cooperative shall pay a fee of $500. Revenue received by the commissioner under this section is appropriated to the commissioner for the purpose of administering this section.

History: *2009 c 97 s 2*

62R.17 [Expired]

62R.18 [Expired]

62R.19 [Expired]

62R.20 [Expired]

62R.21 [Expired]

62R.22 [Expired]

62R.23 [Expired]

62R.24 [Expired]

62R.25 [Expired]

62R.26 [Obsolete]