

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 1607

(SENATE AUTHORS: BENSON, Rosen, Nelson, Gazelka and Dahms)

DATE	D-PG	OFFICIAL STATUS
03/11/2015	678	Introduction and first reading Referred to Health, Human Services and Housing

1.1

A bill for an act

1.2

relating to health; eliminating the MNsure Board; placing MNsure under the

1.3

regulatory authority of the commissioner of human services; changing rulemaking

1.4

provisions; amending Minnesota Statutes 2014, sections 62V.02, subdivisions 2,

1.5

11; 62V.03; 62V.04; 62V.05; 62V.06; 62V.07; 62V.08; 62V.09; 62V.11.

1.6

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

1.7

Section 1. Minnesota Statutes 2014, section 62V.02, subdivision 2, is amended to read:

1.8

Subd. 2. **Board Commissioner.** "Board" "Commissioner" means the ~~Board of~~

1.9

~~Directors of MNsure specified in section 62V.04~~ commissioner of human services.

1.10

Sec. 2. Minnesota Statutes 2014, section 62V.02, subdivision 11, is amended to read:

1.11

Subd. 11. **Qualified health plan.** "Qualified health plan" means a health plan that

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meets the definition in section 1301(a) of the Affordable Care Act, Public Law 111-148,

1.13

and has been certified by the ~~board~~ commissioner in accordance with section 62V.05,

1.14

subdivision 5, to be offered through MNsure.

1.15

Sec. 3. Minnesota Statutes 2014, section 62V.03, is amended to read:

1.16

**62V.03 MNSURE; ESTABLISHMENT.**

1.17

Subdivision 1. **Creation.** MNsure is created ~~as a board under section 15.012,~~

1.18

~~paragraph (a),~~ to:

1.19

(1) promote informed consumer choice, innovation, competition, quality, value,

1.20

market participation, affordability, suitable and meaningful choices, health improvement,

1.21

care management, reduction of health disparities, and portability of health plans;

(2) facilitate and simplify the comparison, choice, enrollment, and purchase of health plans for individuals purchasing in the individual market through MNsure and for employees and employers purchasing in the small group market through MNsure;

(3) assist small employers with access to small business health insurance tax credits and to assist individuals with access to public health care programs, premium assistance tax credits and cost-sharing reductions, and certificates of exemption from individual responsibility requirements;

(4) facilitate the integration and transition of individuals between public health care programs and health plans in the individual or group market and develop processes that, to the maximum extent possible, provide for continuous coverage; and

(5) establish and modify as necessary a name and brand for MNsure based on market studies that show maximum effectiveness in attracting the uninsured and motivating them to take action.

Subd. 2. **Application of other law.** (a) MNsure ~~must be reviewed~~ is subject to audit by the legislative auditor ~~under section 3.971. The legislative auditor shall audit the books, accounts, and affairs of MNsure once each year or less frequently as the legislative auditor's funds and personnel permit. Upon the audit of the financial accounts and affairs of MNsure, MNsure is liable to the state for the total cost and expenses of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The legislative auditor may bill MNsure either monthly or at the completion of the audit. All collections received for the audits must be deposited in the general fund and are appropriated to the legislative auditor. Pursuant to section 3.97, subdivision 3a, the Legislative Audit Commission is requested to direct the legislative auditor to report by March 1, 2014, to the legislature on any duplication of services that occurs within state government as a result of the creation of MNsure. The legislative auditor may make recommendations on consolidating or eliminating any services deemed duplicative. The board shall reimburse the legislative auditor for any costs incurred in the creation of this report.~~

(b) ~~Board members of MNsure are subject to sections 10A.07 and 10A.09. Board members and the personnel of MNsure are subject to section 10A.071.~~

(c) ~~All meetings of the board shall comply with the open meeting law in chapter 13D, except that:~~

(1) ~~meetings, or portions of meetings, regarding compensation negotiations with the director or managerial staff may be closed in the same manner and according to the same procedures identified in section 13D.03;~~

~~(2) meetings regarding contract negotiation strategy may be closed in the same manner and according to the same procedures identified in section 13D.05, subdivision 3, paragraph (c); and~~

~~(3) meetings, or portions of meetings, regarding not public data described in section 62V.06, subdivision 3, and regarding trade secret information as defined in section 13.37, subdivision 1, paragraph (b), are closed to the public, but must otherwise comply with the procedures identified in chapter 13D.~~

~~(d) (b)~~ MNsure and provisions specified under this chapter are exempt from:

~~(1) chapter 14, including section 14.386, except as specified in section 62V.05; and~~

~~(2) chapters 16B and 16C, with the exception of sections 16C.08, subdivision 2, paragraph (b), clauses (1) to (8); 16C.086; 16C.09, paragraph (a), clauses (1) and (3), paragraph (b), and paragraph (c); and section 16C.16. However, MNsure the commissioner, in consultation with the commissioner of administration, shall implement policies and procedures to establish an open and competitive procurement process for MNsure that, to the extent practicable, conforms to the principles and procedures contained in chapters 16B and 16C. In addition, MNsure the commissioner may enter into an agreement with the commissioner of administration for other services.~~

~~(e) The board and (c) The Web site are is~~ exempt from chapter 60K. Any employee of MNsure who sells, solicits, or negotiates insurance to individuals or small employers must be licensed as an insurance producer under chapter 60K.

~~(f) (d)~~ Section 3.3005 applies to any federal funds received by MNsure.

~~(g) MNsure is exempt from the following sections in chapter 16E: 16E.01, subdivision 3, paragraph (b); 16E.03, subdivisions 3 and 4; 16E.04, subdivision 1, subdivision 2, paragraph (c), and subdivision 3, paragraph (b); 16E.0465; 16E.055; 16E.145; 16E.15; 16E.16; 16E.17; 16E.18; and 16E.22.~~

~~(h) A MNsure decision that requires a vote of the board, other than a decision that applies only to hiring of employees or other internal management of MNsure, is an "administrative action" under section 10A.01, subdivision 2.~~

**Subd. 3. Continued operation of a private marketplace.** (a) Nothing in this chapter shall be construed to prohibit: (1) a health carrier from offering outside of MNsure a health plan to a qualified individual or qualified employer; and (2) a qualified individual from enrolling in, or a qualified employer from selecting for its employees, a health plan offered outside of MNsure.

(b) Nothing in this chapter shall be construed to restrict the choice of a qualified individual to enroll or not enroll in a qualified health plan or to participate in MNsure.

Nothing in this chapter shall be construed to compel an individual to enroll in a qualified health plan or to participate in MNsure.

(c) For purposes of this subdivision, "qualified individual" and "qualified employer" have the meanings given in section 1312 of the Affordable Care Act, Public Law 111-148, and further defined through amendments to the act and regulations issued under the act.

Sec. 4. Minnesota Statutes 2014, section 62V.04, is amended to read:

**62V.04 GOVERNANCE.**

~~Subdivision 1. **Board.** MNsure is governed by a board of directors with seven members.~~

~~Subd. 2. **Appointment.** (a) Board membership of MNsure consists of the following:~~

~~(1) three members appointed by the governor with the advice and consent of both the senate and the house of representatives acting separately in accordance with paragraph (d), with one member representing the interests of individual consumers eligible for individual market coverage, one member representing individual consumers eligible for public health care program coverage, and one member representing small employers. Members are appointed to serve four-year terms following the initial staggered-term lot determination;~~

~~(2) three members appointed by the governor with the advice and consent of both the senate and the house of representatives acting separately in accordance with paragraph (d) who have demonstrated expertise, leadership, and innovation in the following areas: one member representing the areas of health administration, health care finance, health plan purchasing, and health care delivery systems; one member representing the areas of public health, health disparities, public health care programs, and the uninsured; and one member representing health policy issues related to the small group and individual markets.~~

~~Members are appointed to serve four-year terms following the initial staggered-term lot determination; and~~

~~(3) the commissioner of human services or a designee.~~

~~(b) Section 15.0597 shall apply to all appointments, except for the commissioner.~~

~~(c) The governor shall make appointments to the board that are consistent with federal law and regulations regarding its composition and structure. All board members appointed by the governor must be legal residents of Minnesota.~~

~~(d) Upon appointment by the governor, a board member shall exercise duties of office immediately. If both the house of representatives and the senate vote not to confirm an appointment, the appointment terminates on the day following the vote not to confirm in the second body to vote.~~

~~(e) Initial appointments shall be made by April 30, 2013.~~

~~(f) One of the six members appointed under paragraph (a), clause (1) or (2), must have experience in representing the needs of vulnerable populations and persons with disabilities.~~

~~(g) Membership on the board must include representation from outside the seven-county metropolitan area, as defined in section 473.121, subdivision 2.~~

~~Subd. 3. **Terms.** (a) Board members may serve no more than two consecutive terms, except for the commissioner or the commissioner's designee, who shall serve until replaced by the governor.~~

~~(b) A board member may resign at any time by giving written notice to the board.~~

~~(c) The appointed members under subdivision 2, paragraph (a), clauses (1) and (2), shall have an initial term of two, three, or four years, determined by lot by the secretary of state.~~

~~Subd. 4. **Conflicts of interest.** (a) Within one year prior to or at any time during their appointed term, board members appointed under subdivision 2, paragraph (a), clauses (1) and (2), shall not be employed by, be a member of the board of directors of, or otherwise be a representative of a health carrier, institutional health care provider or other entity providing health care, navigator, insurance producer, or other entity in the business of selling items or services of significant value to or through MNsure. For purposes of this paragraph, "health care provider or entity" does not include an academic institution.~~

~~(b) Board members must recuse themselves from discussion of and voting on an official matter if the board member has a conflict of interest. A conflict of interest means an association including a financial or personal association that has the potential to bias or have the appearance of biasing a board member's decisions in matters related to MNsure or the conduct of activities under this chapter.~~

~~(c) No board member shall have a spouse who is an executive of a health carrier.~~

~~(d) No member of the board may currently serve as a lobbyist, as defined under section 10A.01, subdivision 21.~~

~~Subd. 5. **Acting chair; first meeting; supervision.** (a) The governor shall designate as acting chair one of the appointees described in subdivision 2.~~

~~(b) The board shall hold its first meeting within 60 days of enactment.~~

~~(c) The board shall elect a chair to replace the acting chair at the first meeting.~~

~~Subd. 6. **Chair.** The board shall have a chair, elected by a majority of members. The chair shall serve for one year.~~

~~Subd. 7. **Officers.** The members of the board shall elect officers by a majority of members. The officers shall serve for one year.~~

6.1 Subd. 8. ~~**Vacancies.** If a vacancy occurs, the governor shall appoint a new member~~  
6.2 ~~within 90 days, and the newly appointed member shall be subject to the same confirmation~~  
6.3 ~~process described in subdivision 2.~~

6.4 Subd. 9. ~~**Removal.** (a) A board member may be removed by the appointing~~  
6.5 ~~authority and a majority vote of the board following notice and hearing before the board.~~  
6.6 ~~For purposes of this subdivision, the appointing authority or a designee of the appointing~~  
6.7 ~~authority shall be a voting member of the board for purposes of constituting a quorum.~~

6.8 (b) ~~A conflict of interest as defined in subdivision 4, shall be cause for removal~~  
6.9 ~~from the board.~~

6.10 Subd. 10. ~~**Meetings.** The board shall meet at least quarterly.~~

6.11 Subd. 11. ~~**Quorum.** A majority of the members of the board constitutes a quorum,~~  
6.12 ~~and the affirmative vote of a majority of members of the board is necessary and sufficient~~  
6.13 ~~for action taken by the board.~~

6.14 Subd. 12. ~~**Compensation.** (a) The board members shall be paid a salary not to~~  
6.15 ~~exceed the salary limits established under section 15A.0815, subdivision 4. The salary for~~  
6.16 ~~board members shall be set in accordance with this subdivision and section 15A.0815,~~  
6.17 ~~subdivision 5. This paragraph expires December 31, 2015.~~

6.18 (b) ~~Beginning January 1, 2016, the board members may be compensated in~~  
6.19 ~~accordance with section 15.0575.~~

6.20 Subd. 13. **Advisory committees.** (a) The board commissioner, in consultation with  
6.21 the Legislative Oversight Committee, shall establish and maintain advisory committees to  
6.22 provide insurance producers, health care providers, the health care industry, consumers,  
6.23 and other stakeholders with the opportunity to advise the board commissioner regarding  
6.24 the operation of MNsure as required under section 1311(d)(6) of the Affordable Care  
6.25 Act, Public Law 111-148. Member appointments to the advisory committees under  
6.26 this paragraph must be approved by the Legislative Oversight Committee. The board  
6.27 commissioner shall regularly consult with the advisory committees, and, at a minimum,  
6.28 convene each advisory committee at least quarterly. The advisory committees established  
6.29 under this paragraph shall not expire.

6.30 (b) The board commissioner may establish additional advisory committees, as  
6.31 necessary, to gather and provide information to the board commissioner in order to  
6.32 facilitate the operation of MNsure. The advisory committees established under this  
6.33 paragraph shall not expire, except by action of by the board commissioner.

6.34 (c) Section 15.0597 shall not apply to any advisory committee established by the  
6.35 board commissioner under this subdivision.

(d) The ~~board~~ commissioner may provide compensation and expense reimbursement under section 15.059, subdivision 3, to members of the advisory committees.

(e) The advisory committees established under this subdivision are subject to the open meeting law in chapter 13D.

Sec. 5. Minnesota Statutes 2014, section 62V.05, is amended to read:

**62V.05 RESPONSIBILITIES AND POWERS OF MNSURE.**

Subdivision 1. **General.** (a) The ~~board~~ commissioner shall operate MNsure according to this chapter and applicable state and federal law.

(b) The ~~board~~ commissioner has the power to:

(1) ~~employ personnel and delegate administrative, operational, and other responsibilities to the director and other personnel as deemed appropriate by the board. This authority is subject to chapters 43A and 179A. The director and managerial staff of MNsure shall serve in the unclassified service and shall be governed by a compensation plan prepared by the board, submitted to the commissioner of management and budget for review and comment within 14 days of its receipt, and approved by the Legislative Coordinating Commission and the legislature under section 3.855, except that section 15A.0815, subdivision 5, paragraph (c), shall not apply;~~

(2) ~~establish the budget of MNsure;~~

(3) seek and accept money, grants, loans, donations, materials, services, or advertising revenue from government agencies, philanthropic organizations, and public and private sources to fund the operation of MNsure. No health carrier or insurance producer shall advertise on MNsure;

(4) ~~(2)~~ contract for the receipt and provision of goods and services;

(5) ~~(3)~~ enter into information-sharing agreements with federal and state agencies and other entities, provided the agreements include adequate protections with respect to the confidentiality and integrity of the information to be shared, and comply with all applicable state and federal laws, regulations, and rules, including the requirements of section 62V.06; and

(6) ~~(4)~~ exercise all powers reasonably necessary to implement and administer the requirements of this chapter and the Affordable Care Act, Public Law 111-148.

(c) The ~~board~~ commissioner shall establish policies and procedures to gather public comment and provide public notice in the State Register.

(d) ~~Within 180 days of enactment, the board shall establish bylaws, policies, and procedures governing the operations of MNsure in accordance with this chapter.~~

8.1 Subd. 2. **Operations funding.** (a) Prior to January 1, 2015, MNsure shall retain or  
8.2 collect up to 1.5 percent of total premiums for individual and small group market health  
8.3 plans and dental plans sold through MNsure to fund the cash reserves of MNsure, but  
8.4 the amount collected shall not exceed a dollar amount equal to 25 percent of the funds  
8.5 collected under section 62E.11, subdivision 6, for calendar year 2012.

8.6 (b) Beginning January 1, 2015, MNsure shall retain or collect up to 3.5 percent of  
8.7 total premiums for individual and small group market health plans and dental plans sold  
8.8 through MNsure to fund the operations of MNsure, but the amount collected shall not  
8.9 exceed a dollar amount equal to 50 percent of the funds collected under section 62E.11,  
8.10 subdivision 6, for calendar year 2012.

8.11 (c) Beginning January 1, 2016, ~~MNsure~~ the commissioner shall retain or collect up  
8.12 to 3.5 percent of total premiums for individual and small group market health plans and  
8.13 dental plans sold through MNsure to fund the operations of MNsure, but the amount  
8.14 collected may never exceed a dollar amount greater than 100 percent of the funds collected  
8.15 under section 62E.11, subdivision 6, for calendar year 2012.

8.16 (d) For fiscal years 2014 and 2015, the commissioner of management and budget is  
8.17 authorized to provide cash flow assistance of up to \$20,000,000 from the special revenue  
8.18 fund or the statutory general fund under section 16A.671, subdivision 3, paragraph (a),  
8.19 to MNsure. Any funds provided under this paragraph shall be repaid, with interest, by  
8.20 June 30, 2015.

8.21 (e) Funding for the operations of MNsure shall cover any compensation provided to  
8.22 navigators participating in the navigator program.

8.23 Subd. 3. **Insurance producers.** (a) ~~By April 30, 2013, The board~~ commissioner, in  
8.24 consultation with the commissioner of commerce, shall establish certification requirements  
8.25 that must be met by insurance producers in order to assist individuals and small employers  
8.26 with purchasing coverage through MNsure. ~~Prior to January 1, 2015, the board may~~  
8.27 ~~amend the requirements, only if necessary, due to a change in federal rules.~~

8.28 (b) Certification requirements shall not exceed the requirements established  
8.29 under Code of Federal Regulations, title 45, part 155.220. Certification shall include  
8.30 training on health plans available through MNsure, available tax credits and cost-sharing  
8.31 arrangements, compliance with privacy and security standards, eligibility verification  
8.32 processes, online enrollment tools, and basic information on available public health care  
8.33 programs. Training required for certification under this subdivision shall qualify for  
8.34 continuing education requirements for insurance producers required under chapter 60K,  
8.35 and must comply with course approval requirements under chapter 45.



(c) Producer compensation shall be established by health carriers that provide health plans through MNsure. The structure of compensation to insurance producers must be similar for health plans sold through MNsure and outside MNsure.

(d) Any insurance producer compensation structure established by a health carrier for the small group market must include compensation for defined contribution plans that involve multiple health carriers. The compensation offered must be commensurate with other small group market defined health plans.

(e) Any insurance producer assisting an individual or small employer with purchasing coverage through MNsure must disclose, orally and in writing, to the individual or small employer at the time of the first solicitation with the prospective purchaser the following:

(1) the health carriers and qualified health plans offered through MNsure that the producer is authorized to sell, and that the producer may not be authorized to sell all the qualified health plans offered through MNsure;

(2) that the producer may be receiving compensation from a health carrier for enrolling the individual or small employer into a particular health plan; and

(3) that information on all qualified health plans offered through MNsure is available through the MNsure Web site.

For purposes of this paragraph, "solicitation" means any contact by a producer, or any person acting on behalf of a producer made for the purpose of selling or attempting to sell coverage through MNsure. If the first solicitation is made by telephone, the disclosures required under this paragraph need not be made in writing, but the fact that disclosure has been made must be acknowledged on the application.

(f) Beginning January 15, 2015, each health carrier that offers or sells qualified health plans through MNsure shall report in writing to the ~~board~~ commissioner and the commissioner of commerce the compensation and other incentives it offers or provides to insurance producers with regard to each type of health plan the health carrier offers or sells both inside and outside of MNsure. Each health carrier shall submit a report annually and upon any change to the compensation or other incentives offered or provided to insurance producers.

(g) Nothing in this chapter shall prohibit an insurance producer from offering professional advice and recommendations to a small group purchaser based upon information provided to the producer.

(h) An insurance producer that offers health plans in the small group market shall notify each small group purchaser of which group health plans qualify for Internal Revenue Service approved section 125 tax benefits. The insurance producer shall also notify small group purchasers of state law provisions that benefit small group plans when

the employer agrees to pay 50 percent or more of its employees' premium. Individuals who are eligible for cost-effective medical assistance will count toward the 75 percent participation requirement in section 62L.03, subdivision 3.

(i) Nothing in this subdivision shall be construed to limit the licensure requirements or regulatory functions of the commissioner of commerce under chapter 60K.

Subd. 4. **Navigator; in-person assisters; call center.** (a) The ~~board~~ commissioner shall establish policies and procedures for the ongoing operation of a navigator program, in-person assister program, call center, and customer service provisions for MNsure to be implemented beginning January 1, 2015.

(b) ~~Until the implementation of the policies and procedures described in paragraph (a), the following shall be in effect:~~

~~(1) the navigator program shall be met by section 256.962;~~

~~(2) entities eligible to be navigators, including entities defined in Code of Federal Regulations, title 45, part 155.210 (c)(2), may serve as in-person assisters;~~

~~(3) The board commissioner shall establish requirements and compensation for the navigator program and the in-person assister program by April 30, 2013. Entities eligible to be navigators, including entities defined in Code of Federal Regulations, title 45, part 155.210 (c)(2), may serve as in-person assisters. Compensation for navigators and in-person assisters must be equal to the compensation provided to insurance producers, and must take into account any other compensation received by the navigator or in-person assister for conducting the same or similar services; and.~~

~~(4) (c) Call center operations shall utilize existing state resources and personnel, including referrals to counties for medical assistance.~~

~~(e) (d) The board commissioner shall establish a toll-free number for MNsure and may hire and contract for additional resources as deemed necessary.~~

~~(d) (e) The navigator program and in-person assister program must meet the requirements of section 1311(i) of the Affordable Care Act, Public Law 111-148. In establishing training standards for the navigators and in-person assisters, the board commissioner must ensure that all entities and individuals carrying out navigator and in-person assister functions have training in the needs of underserved and vulnerable populations; eligibility and enrollment rules and procedures; the range of available public health care programs and qualified health plan options offered through MNsure; and privacy and security standards. For calendar year 2014, the commissioner of human services shall ensure that the navigator program under section 256.962 provides application assistance for both qualified health plans offered through MNsure and public health care programs.~~

(e) ~~(f)~~ The ~~board~~ commissioner must ensure that any information provided by navigators, in-person assisters, the call center, or other customer assistance portals be accessible to persons with disabilities and that information provided on public health care programs include information on other coverage options available to persons with disabilities.

Subd. 5. **Health carrier and health plan requirements; participation.** ~~(a) Beginning January 1, 2015, the board may establish certification requirements for health carriers and health plans to be offered through MNsure that satisfy federal requirements under section 1311(e)(1) of the Affordable Care Act, Public Law 111-148.~~

~~(b) Paragraph (a) does not apply if by June 1, 2013, the legislature enacts regulatory requirements that:~~

~~(1) apply uniformly to all health carriers and health plans in the individual market;~~

~~(2) apply uniformly to all health carriers and health plans in the small group market;~~

~~and~~

~~(3) satisfy minimum federal certification requirements under section 1311(e)(1) of the Affordable Care Act, Public Law 111-148.~~

~~(e) In accordance with section 1311(e) of the Affordable Care Act, Public Law 111-148, the board shall establish policies and procedures for certification and selection of health plans to be offered as qualified health plans through MNsure.~~ (a) The board commissioner shall certify and select a health plan as a qualified health plan to be offered through MNsure, if:

~~(1) the health plan meets the minimum certification requirements established in paragraph (a) or the market regulatory requirements in paragraph (b);~~

~~(2) the board determines that making the health plan available through MNsure is in the interest of qualified individuals and qualified employers;~~

~~(3) the health carrier applying to offer the health plan through MNsure also applies to offer health plans at each actuarial value level and service area that the health carrier currently offers in the individual and small group markets; and~~

~~(4) the health carrier does not apply to offer health plans in the individual and small group markets through MNsure under a separate license of a parent organization or holding company under section 60D.15, that is different from what the health carrier offers in the individual and small group markets outside MNsure~~ the health plan satisfies the federal requirements under section 1311(c)(1) of the Affordable Care Act, Public Law 111-148.

~~(d) In determining the interests of qualified individuals and employers under paragraph (c), clause (2), the board may not exclude a health plan for any reason specified~~

12.1 ~~under section 1311(c)(1)(B) of the Affordable Care Act, Public Law 111-148. The board~~  
 12.2 ~~may consider:~~

- 12.3 ~~(1) affordability;~~
- 12.4 ~~(2) quality and value of health plans;~~
- 12.5 ~~(3) promotion of prevention and wellness;~~
- 12.6 ~~(4) promotion of initiatives to reduce health disparities;~~
- 12.7 ~~(5) market stability and adverse selection;~~
- 12.8 ~~(6) meaningful choices and access;~~
- 12.9 ~~(7) alignment and coordination with state agency and private sector purchasing~~  
 12.10 ~~strategies and payment reform efforts; and~~
- 12.11 ~~(8) other criteria that the board determines appropriate.~~

12.12 ~~(e) For qualified health plans offered through MNsure on or after January 1, 2015,~~  
 12.13 ~~the board shall establish policies and procedures under paragraphs (c) and (d) for selection~~  
 12.14 ~~of health plans to be offered as qualified health plans through MNsure by February 1~~  
 12.15 ~~of each year, beginning February 1, 2014. The board shall consistently and uniformly~~  
 12.16 ~~apply all policies and procedures and any requirements, standards, or criteria to all health~~  
 12.17 ~~carriers and health plans. For any policies, procedures, requirements, standards, or criteria~~  
 12.18 ~~that are defined as rules under section 14.02, subdivision 4, the board may use the process~~  
 12.19 ~~described in subdivision 9.~~

12.20 ~~(f) For 2014, the board shall not have the power to select health carriers and health~~  
 12.21 ~~plans for participation in MNsure. The board shall permit all health plans that meet the~~  
 12.22 ~~certification requirements under section 1311(c)(1) of the Affordable Care Act, Public~~  
 12.23 ~~Law 111-148, to be offered through MNsure.~~

12.24 ~~(g)~~ (b) Under this subdivision, the board commissioner shall have the power  
 12.25 to verify that health carriers and health plans are properly certified to be eligible for  
 12.26 participation in MNsure.

12.27 ~~(h)~~ (c) The board commissioner has the authority to decertify health carriers and  
 12.28 health plans that fail to maintain compliance with section 1311(c)(1) of the Affordable  
 12.29 Care Act, Public Law 111-148.

12.30 ~~(i)~~ (d) For qualified health plans offered through MNsure beginning January 1,  
 12.31 2015, health carriers must use the most current addendum for Indian health care providers  
 12.32 approved by the Centers for Medicare and Medicaid Services and the tribes as part of their  
 12.33 contracts with Indian health care providers. MNsure shall comply with all future changes  
 12.34 in federal law with regard to health coverage for the tribes.

12.35 Subd. 6. **Appeals.** (a) The board commissioner may conduct hearings, appoint  
 12.36 hearing officers, and recommend final orders related to appeals of any MNsure

determinations, except for those determinations identified in paragraph (d). An appeal by a health carrier regarding a specific certification or selection determination made by MNsure ~~the commissioner~~ under subdivision 5 must be conducted as a contested case proceeding under chapter 14, with the report or order of the administrative law judge constituting the final decision in the case, subject to judicial review under sections 14.63 to 14.69. For other appeals, the ~~board~~ commissioner shall establish hearing processes which provide for a reasonable opportunity to be heard and timely resolution of the appeal and which are consistent with the requirements of federal law and guidance. An appealing party may be represented by legal counsel at these hearings, but this is not a requirement.

(b) ~~MNsure~~ The commissioner may establish service-level agreements with other state agencies to conduct hearings for appeals. Notwithstanding section 471.59, subdivision 1, a state agency is authorized to enter into service-level agreements for this purpose with ~~MNsure~~ the commissioner.

(c) For proceedings under this subdivision, MNsure may be represented by an attorney who is an employee of MNsure.

(d) This subdivision does not apply to appeals of determinations where a state agency hearing is available under section 256.045.

Subd. 7. **Agreements; consultation.** (a) The ~~board~~ commissioner shall:

~~(1) establish and maintain an agreement with the chief information officer of the Office of MN.IT Services for information technology services that ensures coordination with public health care programs. The board may establish and maintain agreements with the chief information officer of the Office of MN.IT Services for other information technology services, including an agreement that would permit MNsure to administer eligibility for additional health care and public assistance programs under the authority of the commissioner of human services;~~

~~(2) establish and maintain an agreement with the commissioner of human services for cost allocation and services regarding eligibility determinations and enrollment for public health care programs that use a modified adjusted gross income standard to determine program eligibility. The board may establish and maintain an agreement with the commissioner of human services for other services;~~

~~(3)~~ (1) establish and maintain an agreement with the commissioners of commerce and health for services regarding enforcement of MNsure certification requirements for health plans and dental plans offered through MNsure. The ~~board~~ commissioner may establish and maintain agreements with the commissioners of commerce and health for other services; and

14.1 ~~(4)~~ (2) establish interagency agreements to transfer funds to other state agencies for  
14.2 their costs related to implementing and operating MNsure, excluding medical assistance  
14.3 allocatable costs.

14.4 (b) The commissioner shall consult with the Office of MN.IT Services on all  
14.5 decisions that relate to information technology services to ensure coordination and  
14.6 compatibility between public health care programs and qualified health plans.

14.7 ~~(b)~~ (c) The ~~board~~ commissioner shall consult with the commissioners of commerce  
14.8 and health regarding the operations of MNsure.

14.9 ~~(e)~~ (d) The ~~board~~ commissioner shall consult with Indian tribes and organizations  
14.10 regarding the operation of MNsure.

14.11 ~~(d)~~ (e) Beginning March 15, 2014 2016, and each March 15 thereafter, the ~~board~~  
14.12 commissioner shall submit a report to the chairs and ranking minority members of the  
14.13 committees in the senate and house of representatives with primary jurisdiction over  
14.14 commerce, health, and human services on all the agreements entered into with the chief  
14.15 information officer of the Office of MN.IT Services, or the commissioners of ~~human~~  
14.16 ~~services~~, health, or commerce in accordance with this subdivision. The report shall include  
14.17 the agency in which the agreement is with; the time period of the agreement; the purpose  
14.18 of the agreement; and a summary of the terms of the agreement. A copy of the agreement  
14.19 must be submitted to the extent practicable.

14.20 Subd. 8. **Rulemaking.** ~~(a) If the board's policies, procedures, or other statements are~~  
14.21 ~~rules, as defined in section 14.02, subdivision 4, the requirements in either paragraph (b)~~  
14.22 ~~or (c) apply, as applicable.~~

14.23 ~~(b) Effective upon enactment until January 1, 2015:~~

14.24 ~~(1) the board shall publish notice of proposed rules in the State Register after~~  
14.25 ~~complying with section 14.07, subdivision 2;~~

14.26 ~~(2) interested parties have 21 days to comment on the proposed rules. The board~~  
14.27 ~~must consider comments it receives. After the board has considered all comments and~~  
14.28 ~~has complied with section 14.07, subdivision 2, the board shall publish notice of the~~  
14.29 ~~final rule in the State Register;~~

14.30 ~~(3) if the adopted rules are the same as the proposed rules, the notice shall state that~~  
14.31 ~~the rules have been adopted as proposed and shall cite the prior publication. If the adopted~~  
14.32 ~~rules differ from the proposed rules, the portions of the adopted rules that differ from the~~  
14.33 ~~proposed rules shall be included in the notice of adoption, together with a citation to the~~  
14.34 ~~prior State Register that contained the notice of the proposed rules; and~~

15.1 ~~(4) rules published in the State Register before January 1, 2014, take effect upon~~  
15.2 ~~publication of the notice. Rules published in the State Register on and after January 1,~~  
15.3 ~~2014, take effect 30 days after publication of the notice.~~

15.4 ~~(e) Beginning January 1, 2015, The board~~ commissioner ~~may adopt rules to~~  
15.5 ~~implement any provisions in this chapter using the expedited rulemaking process in~~  
15.6 ~~section 14.389.~~

15.7 ~~(d) The notice of proposed rules required in paragraph (b) must provide information~~  
15.8 ~~as to where the public may obtain a copy of the rules. The board shall post the proposed~~  
15.9 ~~rules on the MNsure Web site at the same time the notice is published in the State Register.~~

15.10 Subd. 9. **Dental plans.** (a) The provisions of this section that apply to health plans  
15.11 shall apply to dental plans offered as stand-alone dental plans through MNsure, to the  
15.12 extent practicable.

15.13 (b) A stand-alone dental plan offered through MNsure must meet all certification  
15.14 requirements under section 1311(c)(1) of the Affordable Care Act, Public Law 111-148,  
15.15 that are applicable to health plans, except for certification requirements that cannot be met  
15.16 because the dental plan only covers dental benefits.

15.17 Subd. 10. **Limitations; risk-bearing.** ~~(a) The board~~ MNsure ~~shall not bear~~  
15.18 ~~insurance risk or~~ and the commissioner shall not ~~enter into any agreement with health care~~  
15.19 ~~providers to pay claims.~~

15.20 ~~(b) Nothing in this subdivision shall prevent MNsure from providing insurance~~  
15.21 ~~for its employees.~~

15.22 Subd. 11. **Open enrollment periods.** Prior to making a decision to extend the  
15.23 annual open enrollment period for qualified health plans offered through MNsure, the  
15.24 commissioner shall consult with the Legislative Oversight Committee.

15.25 Sec. 6. Minnesota Statutes 2014, section 62V.06, is amended to read:

15.26 **62V.06 DATA PRACTICES.**

15.27 Subdivision 1. **Applicability.** ~~MNsure is a state agency for purposes of the~~  
15.28 ~~Minnesota Government Data Practices Act and is subject to all provisions of chapter 13,~~  
15.29 ~~in addition to the requirements contained in this section.~~

15.30 Subd. 2. **Definitions.** As used in this section:

15.31 (1) "individual" means an individual according to section 13.02, subdivision 8, but  
15.32 does not include a vendor of services; and

15.33 (2) "participating" means that an individual, employee, or employer is seeking, or  
15.34 has sought an eligibility determination, enrollment processing, or premium processing  
15.35 through MNsure.

Subd. 3. **General data classifications.** The following data collected, created, or maintained by MNsure are classified as private data on individuals, as defined in section 13.02, subdivision 12, or nonpublic data, as defined in section 13.02, subdivision 9:

(1) data on any individual participating in MNsure;

(2) data on any individuals participating in MNsure as employees of an employer participating in MNsure; and

(3) data on employers participating in MNsure.

Subd. 4. **Application and certification data.** (a) Data submitted by an insurance producer in an application for certification to sell a health plan through MNsure, or submitted by an applicant seeking permission or a commission to act as a navigator or in-person assister, are classified as follows:

(1) at the time the application is submitted, all data contained in the application are private data, as defined in section 13.02, subdivision 12, or nonpublic data as defined in section 13.02, subdivision 9, except that the name of the applicant is public; and

(2) upon a final determination related to the application for certification by MNsure, all data contained in the application are public, with the exception of trade secret data as defined in section 13.37.

(b) Data created or maintained by a government entity as part of the evaluation of an application are protected nonpublic data, as defined in section 13.02, subdivision 13, until a final determination as to certification is made and all rights of appeal have been exhausted. Upon a final determination and exhaustion of all rights of appeal, these data are public, with the exception of trade secret data as defined in section 13.37 and data subject to attorney-client privilege or other protection as provided in section 13.393.

(c) If an application is denied, the public data must include the criteria used by the ~~board~~ commissioner to evaluate the application and the specific reasons for the denial, and these data must be published on the MNsure Web site.

Subd. 5. **Data sharing.** (a) ~~MNsure~~ The commissioner may share or disseminate data classified as private or nonpublic in subdivision 3 as follows:

(1) to the subject of the data, as provided in section 13.04;

(2) according to a court order;

(3) according to a state or federal law specifically authorizing access to the data;

(4) with other state or federal agencies, only to the extent necessary to verify the identity of, determine the eligibility of, process premiums for, process enrollment of, or investigate fraud related to an individual, employer, or employee participating in MNsure, provided that ~~MNsure~~ the commissioner must enter into a data-sharing agreement with the agency prior to sharing data under this clause; and



(5) with a nongovernmental person or entity, only to the extent necessary to verify the identity of, determine the eligibility of, process premiums for, process enrollment of, or investigate fraud related to an individual, employer, or employee participating in MNsure, provided that ~~MNsure~~ the commissioner must enter into a contract with the person or entity, as provided in section 13.05, subdivision 6 or 11, prior to disseminating data under this clause.

(b) ~~MNsure~~ The commissioner may share or disseminate data classified as private or nonpublic in subdivision 4 as follows:

(1) to the subject of the data, as provided in section 13.04;

(2) according to a court order;

(3) according to a state or federal law specifically authorizing access to the data;

(4) with other state or federal agencies, only to the extent necessary to carry out the functions of MNsure, provided that ~~MNsure~~ the commissioner must enter into a data-sharing agreement with the agency prior to sharing data under this clause; and

(5) with a nongovernmental person or entity, only to the extent necessary to carry out the functions of MNsure, provided that ~~MNsure~~ the commissioner must enter a contract with the person or entity, as provided in section 13.05, subdivision 6 or 11, prior to disseminating data under this clause.

(c) Sharing or disseminating data outside of MNsure in a manner not authorized by this subdivision is prohibited. The list of authorized dissemination and sharing contained in this subdivision must be included in the Tennessean warning required by section 13.04, subdivision 2.

~~(d) Until July 1, 2014, state agencies must share data classified as private or nonpublic on individuals, employees, or employers participating in MNsure with MNsure, only to the extent such data are necessary to verify the identity of, determine the eligibility of, process premiums for, process enrollment of, or investigate fraud related to a MNsure participant. The agency must enter into a data-sharing agreement with MNsure prior to sharing any data under this paragraph.~~

Subd. 6. **Notice and disclosures.** (a) In addition to the Tennessean warning required by section 13.04, subdivision 2, ~~MNsure~~ the commissioner must provide any data subject asked to supply private data with:

(1) a notice of rights related to the handling of genetic information, pursuant to section 13.386; and

(2) a notice of the records retention policy of MNsure, detailing the length of time MNsure will retain data on the individual and the manner in which it will be destroyed upon expiration of that time.

(b) All notices required by this subdivision, including the Tennessean warning, must be provided in an electronic format suitable for downloading or printing.

Subd. 7. **Summary data.** In addition to creation and disclosure of summary data derived from private data on individuals, as permitted by section 13.05, subdivision 7, ~~MNsire~~ the commissioner may create and disclose summary data derived from data classified as nonpublic under this section.

Subd. 8. **Access to data; audit trail.** (a) Only individuals with explicit authorization from the ~~board~~ commissioner may enter, update, or access not public data collected, created, or maintained by MNsure. The ability of authorized individuals to enter, update, or access data must be limited through the use of role-based access that corresponds to the official duties or training level of the individual, and the statutory authorization that grants access for that purpose. All queries and responses, and all actions in which data are entered, updated, accessed, or shared or disseminated outside of MNsure, must be recorded in a data audit trail. Data contained in the audit trail are public, to the extent that the data are not otherwise classified by this section.

The ~~board~~ commissioner shall immediately and permanently revoke the authorization of any individual determined to have willfully entered, updated, accessed, shared, or disseminated data in violation of this section, or any provision of chapter 13. If an individual is determined to have willfully gained access to data without explicit authorization from the ~~board~~ commissioner, the ~~board~~ commissioner shall forward the matter to the county attorney for prosecution.

(b) This subdivision shall not limit or affect the authority of the legislative auditor to access data needed to conduct audits, evaluations, or investigations of MNsure or the obligation of the ~~board~~ commissioner and MNsure employees to comply with section 3.978, subdivision 2.

(c) This subdivision does not apply to actions taken by a MNsure participant to enter, update, or access data held by MNsure, if the participant is the subject of the data that is entered, updated, or accessed.

Subd. 9. **Sale of data prohibited.** ~~MNsire~~ The commissioner may not sell any data collected, created, or maintained by MNsure, regardless of its classification, for commercial or any other purposes.

Subd. 10. **Gun and firearm ownership.** ~~MNsire~~ The commissioner shall not collect information that indicates whether or not an individual owns a gun or has a firearm in the individual's home.

19.1 Sec. 7. Minnesota Statutes 2014, section 62V.07, is amended to read:

19.2 **62V.07 FUNDS.**

19.3 ~~(a) The MNsure account is created in the state government special revenue fund of the~~  
19.4 ~~state treasury. All funds received by MNsure shall be deposited in the account. Funds in the~~  
19.5 ~~account are appropriated to MNsure for the operation of MNsure.~~ Notwithstanding section  
19.6 11A.20, all investment income and all investment losses attributable to the investment of  
19.7 the MNsure account not currently needed, shall be credited to the MNsure account.

19.8 ~~(b) The budget submitted to the legislature under section 16A.11 must include~~  
19.9 ~~budget information for MNsure.~~

19.10 Sec. 8. Minnesota Statutes 2014, section 62V.08, is amended to read:

19.11 **62V.08 REPORTS.**

19.12 ~~(a) MNsure~~ The commissioner shall submit a report to the legislature by January 15,  
19.13 ~~2015~~ 2016, and each January 15 thereafter, on: (1) the performance of MNsure operations;  
19.14 (2) meeting MNsure responsibilities; (3) an accounting of MNsure budget activities; (4)  
19.15 practices and procedures that have been implemented to ensure compliance with data  
19.16 practices laws, and a description of any violations of data practices laws or procedures;  
19.17 and (5) the effectiveness of the outreach and implementation activities of MNsure in  
19.18 reducing the rate of uninsurance.

19.19 ~~(b) MNsure~~ The commissioner must publish its administrative and operational costs  
19.20 on a Web site to educate consumers on those costs. The information published must  
19.21 include: (1) the amount of premiums and federal premium subsidies collected; (2) the  
19.22 amount and source of revenue received under section 62V.05, subdivision 1, paragraph  
19.23 (b), clause (3); (3) the amount and source of any other fees collected for purposes of  
19.24 supporting operations; and (4) any misuse of funds as identified in accordance with section  
19.25 3.975. The Web site must be updated at least annually.

19.26 Sec. 9. Minnesota Statutes 2014, section 62V.09, is amended to read:

19.27 **62V.09 EXPIRATION AND SUNSET EXCLUSION.**

19.28 Notwithstanding section 15.059, the ~~board and its~~ advisory committees established  
19.29 by the commissioner under this chapter shall not expire, except as specified in section  
19.30 62V.04, subdivision 13. ~~The board and its advisory committees are not subject to review~~  
19.31 ~~or sunseting under chapter 3D.~~

Sec. 10. Minnesota Statutes 2014, section 62V.11, is amended to read:

**62V.11 LEGISLATIVE OVERSIGHT COMMITTEE.**

Subdivision 1. **Legislative oversight.** (a) The Legislative Oversight Committee is established to provide oversight to the implementation of this chapter and the operation of MNsure.

(b) The committee shall review the operations of MNsure at least annually on a quarterly basis and shall recommend necessary changes in policy, implementation, and statutes to the ~~board~~ commissioner and to the legislature.

(c) ~~MNsure~~ The commissioner shall present to the committee the annual report required in section 62V.08, the appeals process under section 62V.05, subdivision 6, and the actions taken regarding the treatment of multiemployer plans.

Subd. 2. **Membership; meetings; compensation.** (a) The Legislative Oversight Committee shall consist of five members of the senate, three members appointed by the majority leader of the senate, and two members appointed by the minority leader of the senate; and five members of the house of representatives, three members appointed by the speaker of the house, and two members appointed by the minority leader of the house of representatives.

(b) Appointed legislative members serve at the pleasure of the appointing authority and shall continue to serve until their successors are appointed.

(c) The first meeting of the committee shall be convened by the chair of the Legislative Coordinating Commission. Members shall elect a chair at the first meeting. The chair must convene at least ~~one meeting~~ four meetings annually, and may convene other meetings as deemed necessary.

~~Subd. 3. **Review of proposed rules.** (a) Prior to the implementation of rules proposed under section 62V.05, subdivision 8, paragraph (b), the board shall submit the proposed rules to the committee at the same time the proposed rules are published in the State Register.~~

~~(b) When the legislature is in session, the rule may be adopted, but, if within ten days of receipt of the proposed rule a majority of the committee members appointed by the senate and a majority of the committee members appointed by the house of representatives request further review of the proposed rule, the rule shall not be effective until the request has been satisfied and withdrawn, the rule is approved in law, or the regular session of the legislature is adjourned for the year.~~

~~(c) If the legislature is not in session, the rule may be adopted, but, if within ten days of receipt of the proposed rule a majority of the committee members appointed by the senate and a majority of the committee members appointed by the house of representatives~~

21.1 ~~request further review of the proposed rule, the rule shall not be effective until the request~~  
21.2 ~~has been satisfied and withdrawn, or February 1, whichever occurs first.~~

21.3 Subd. 4. **Review of costs.** The ~~board~~ commissioner shall submit for review the  
21.4 annual budget of MNsure for the next fiscal year by March 15 of each year, beginning  
21.5 March 15, 2014.

21.6 Subd. 5. **Advisory committees.** The commissioner shall consult with the  
21.7 Legislative Oversight Committee on the appointment of the members to the advisory  
21.8 committees required under section 62V.04, subdivision 13, paragraph (a). The members  
21.9 must be approved by the Legislative Oversight Committee prior to appointment to the  
21.10 advisory committees. Members of the advisory committees must have expertise in one of  
21.11 the following areas, depending on the advisory committee's focus: health administration;  
21.12 health care finance; health plan purchasing; health care delivery systems; public health  
21.13 disparities; or the uninsured.

21.14 Sec. 11. **EFFECTIVE DATE.**

21.15 Sections 1 to 10 are effective July 1, 2015.