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. Any contract between a provider cooperative and a purchaser must provide for payment by the purchaser to the health provider cooperative on a substantially capitated or similar risk–sharing basis. 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*

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*

HEALTH PROVIDER COOPERATIVES

62R.17 PROVIDER COOPERATIVE DEMONSTRATION.

(a) A health provider cooperative incorporated and having adopted bylaws before May 1, 1995, that has members who provide services in Sibley, Nicollet, Blue Earth, Brown, Watonwan, Martin, Faribault, Waseca, and LeSueur counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R 17 to 62R.26.

(b) A health provider cooperative incorporated and having adopted bylaws before July 1, 1995, that has members who provide services in Big Stone, Chippewa, Cottonwood, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, McLeod, Meeker, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Swift, and Yellow Medicine counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R.17 to 62R.26.

(c) A health provider cooperative incorporated and having adopted bylaws before March 1, 1995, that has members who provide services in Big Stone, Chippewa, Cottonwood, Jackson, Kandiyohi, Lac Qui Parle, Lincoln, Lyon, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Swift, and Yellow Medicine counties, may contract with a qualified employer or self-insured employer plan to provide health care services in accordance with sections 62R.17 to 62R.26.

(d) The health provider cooperative, the qualified employer, or the self-insured employer plan shall not, solely on account of that contract, be subject to any provision of Minnesota Statutes relating to health carriers except as provided in section 62R.21. The grant of contracting power under this section shall not be interpreted to permit or prohibit any other lawful arrangement between a health care provider and a self-insured employee welfare benefit plan or its sponsor.

History: *1995 c 234 art 10 s 1; 1996 c 451 art 4 s 4*

NOTE See section 62R 26 for expiration date

62R.18 DEFINITIONS.

Subdivision 1. **Application.** For purposes of sections 62R.17 to 62R.26, the terms defined in this section have the meanings given

Subd. 2. **Health carrier.** "Health carrier" means a health carrier as defined in section 62A.011.

Subd. 3. **Plan participant.** "Plan participant" means an eligible employee or retiree of a qualified employer or an eligible dependent of an employee or retired employee of a qualified employer.

Subd. 4. **Qualified employer.** "Qualified employer" means an employer sponsoring or maintaining a self-insured employer plan meeting the requirements of sections 62R.19 and 62R.21.

Subd. 5. **Self-insured employer plan.** "Self-insured employer plan" means a plan, fund, or program established or maintained by a qualified employer on or before January 1, 1995, for the purpose of providing medical, surgical, hospital, or other health care benefits to plan participants primarily on a self-insured basis. A governmental joint self-insurance plan established under chapter 471 is a self-insured employer plan for purposes of this definition

History: *1995 c 234 art 10 s 2*

NOTE See section 62R 26 for expiration date

62R.19 STOP LOSS REQUIREMENT.

A health provider cooperative shall not contract with a qualified employer or self-insured employer plan under section 62R.17 unless the qualified employer or self-insured employer plan maintains a policy of stop loss or excess loss insurance from an insurance company licensed to do business in this state in accordance with the following:

(1) A qualified employer with more than 750 employees as defined m section 62L.02 must not maintain a policy of stop loss, excess loss, or similar coverage with an attachment point less than 120 percent of the self-insured employer plan's annual expected benefit costs;

(2) A qualified employer with 200 or more but fewer than 750 employees as defined in section 62L.02 must maintain a policy providing aggregate stop loss insurance with an annual attachment point of no less than 120 percent of the self-insured employer plan's annual expected benefit costs and providing individual stop loss coverage with a deductible of no less than $10,000; and

(3) A qualified employer with fewer than 200 employees as defined in section 62L.02 must maintain a policy meeting the requirements of section 60A.235.

History: *1995 c 234 art 10 s 3*

NOTE See section 62R.26 for expiration date

62R.20 CONTRACT REQUIREMENTS.

Any contract for health care services described in section 62R.17 is subject to the following requirements:

(1) The contract must be structured so that the health provider cooperative does not bear financial risk in excess of 50 percent of the self-insured employer plan's expected annual costs.

(2) The contract must not be effective prior to January 1, 1996.

(3) The contract must be limited to those services regularly provided by the cooperative or its members.

(4) The contract must obligate the qualified employer to maintain its self-insured employer plan in accordance with section 62R.21.

History: *1995 c 234 art 10 s 4*

NOTE See section 62R.26 for expiration date

62R.21 PLAN REQUIREMENTS.

The requirements described in section 62R.20, clause (4), are as follows:

(1) The plan shall not exclude any eligible employees or their dependents, both as defined in section 62L.02, from coverage offered by the employer, under this paragraph or any other health coverage, insured or self-insured, offered by the employer, on the basis of the health status or health history of the person.

(2) Contributions to the cost of the self-insured employer plan from plan participants must not be based upon the gender of the plan participant

History: *1995 c 234 art 10 s 5*

NOTE See section 62R.26 for expiration date

62R.22 PARTICIPANT HOLD HARMLESS.

The health provider cooperative and its members and patrons must not have recourse against the plan participants of any self-insured employer plan with which the cooperative has contracted in accordance with sections 62R.17 to 62R.26, except for collection of copayments, coinsurance, or deductibles, or for health care services rendered that are not covered by the self-insured employer plan or that are in excess of the lifetime maximum benefit limit. This requirement applies to, but is not limited to, nonpayment of the cooperative by the self-insured employer plan or qualified employer, insolvency of the qualified employer, insolvency of the health provider cooperative, or nonpayment by the cooperative to the cooperative member or patron.

History: *1995 c 234 art 10 s 6*

NOTE See section 62R.26 for expiration date.

62R.23 CONTINUATION OF CARE.

In the event of the insolvency or bankruptcy of a qualified employer, a health provider cooperative described in section 62R.17 and its members shall continue to deliver the contracted health care services to plan participants for a period of 30 days, whether or not the cooperative receives payment from the qualified employer, its estate in bankruptcy, or from

the self–insured employer plan. Section 62R.22 applies to this section. Nothing in this section, however, limits the right of the cooperative to seek payment from the qualified employer, its estate, or the self–insured employer plan for services so rendered.

History: *1995 c 234 art 10 s 7*

NOTE See section 62R 26 for expiration date

62R.24 TAXES AND ASSESSMENTS.

Effective January 1, 1998, as a condition to entering a contract described in section 62R.17, a self–insured employer plan or the qualified employer must voluntarily pay the one percent premium tax imposed in section 60A.15, subdivision 1, paragraph (d), and assessments by the Minnesota Comprehensive Health Association.

History: *1995 c 234 art 10 s 8*

NOTE See section 62R 26 for expiration date

62R.25 NOTIFICATION OF CONTRACT; REPORT TO LEGISLATURE.

(a) Each health provider cooperative shall notify the office of rural health in writing upon entering a contract described in section 62R.17.

(b) The department of health, office of rural health, shall provide an information report to the MinnesotaCare finance division of the house health and human services committee and the senate health care committee no later than January 15, 1999, on the status of direct contracting between health provider cooperatives and self–insured employer plans or qualified employers in accordance with sections 62R.17 to 62R.26. The report shall consider the effects on public policy and on health provider cooperatives of a possible requirement that health provider cooperatives using direct contracting be obligated to become community integrated service networks.

History: *1995 c 234 art 10 s 9*

NOTE. See section 62R 26 for expiration date

62R.26 SUNSET.

Sections 62R.17 to 62R.25 expire on December 31, 1999.

History: *1995 c 234 art 10 s 10*