

## **S.F. No. 1681 – Requirements for certain health care entity transactions (as proposed to be amended by the A-2 amendment)**

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**Section 1 [144.557; Requirements for certain health care entity transactions]** proposes new coding in chapter 144 to govern certain health care entity transactions.

**Subdivision 1 [Definitions]** sets forth certain definitions, including “captive professional entity,” “health care entity,” “health care provider,” “health care provider group practice,” and “transaction.”

**Subdivision 2 [Notice required]** states certain notice requirements for health care entities involved in a transaction and gives additional authority to the commissioner of health and attorney general.

**Paragraph (a)** states subdivision 2 applies to all transactions where (1) a health care entity involved has average revenue of at least \$10,000,000 per year or (2) an entity created by the transaction is projected to have average revenue of at least \$10,000,000 per year.

**Paragraph (b)** requires a health care entity to provide notice at least 180 days before the proposed completion date of the transaction to the attorney general and commissioner of health and requires a health care entity to comply with subdivision 2.

**Paragraph (c)** requires a health care entity to affirmatively disclose certain information to the attorney general and commissioner of health at least 180 days before the proposed completion date of the transaction, including the entities involved in the transaction, the terms of the transaction agreement, the acquisition price, and the plans to close facilities, reduce workforce, or reduce or eliminate services.

**Paragraph (d)** requires a health care entity to affirmatively produce certain documents to the attorney general and commissioner of health at least 180 days before the proposed completion date of the transaction, including the current governing documents for all entities involved, the transaction agreement, a financial and economic analysis and report on the effects of the transaction, an impact analysis report on the effects of the transaction on communities and the workforce, and the audited and unaudited financial statements from and the tax filings for all entities involved in the transaction covering the preceding five fiscal years.

**Paragraph (e)** allows the commissioner of health to adopt rules to implement this section and to alter, amend, suspend, or repeal any such rules. States the rulemaking requirements of section 14.125 do not apply to the adoption of rules under this paragraph.

**Paragraph (f)** allows the attorney general to extend the notice and waiting period under paragraph (b) for an additional 90 days.

**Paragraph (g)** allows the attorney general to waive all or any part of the notice and waiting period under paragraph (b).

**Paragraph (h)** allows the attorney general or commissioner of health to hold public listening sessions to obtain input from those impacted by the transaction.

**Paragraph (i)** allows the attorney general or commissioner of health to bring an action in district court to compel compliance with the notice requirements under this subdivision.

**Subdivision 3 [Prohibited transactions]** prohibits a health care entity from entering into a transaction that will substantially lessen competition or tend to create a monopoly or monopsony.

**Subdivision 4 [Additional requirements for nonprofit health care entities]** requires a health care entity incorporated under chapter 317A as a nonprofit corporation or organized under section 322C.1101 as a nonprofit limited liability company to ensure, before entering into a transaction, that (1) the transaction complies with chapters 317A and 501B; (2) the transaction does not involve or constitute a breach of charitable trust; (3) the health care entity will receive full and fair value for its public benefit assets; (4) the value of the public benefit assets has not been manipulated in a way that causes the value to decrease; (5) the proceeds will be used in a manner consistent with the public benefit; (6) the transaction will not result in a breach of fiduciary duty; and (7) there are procedures in place to prohibit any officer, director, trustee, or other executive from directly or indirectly benefiting from the transaction.

**Subdivision 5 [Attorney general enforcement and supplemental authority]** creates additional authority and duties for the attorney general.

**Paragraph (a)** allows the attorney general to bring an action in district court to enjoin or unwind a transaction, or seek other equitable relief to protect public interest, if a health care entity or transaction violates this section, or if the transaction

is contrary to public interest. Lays out factors that inform whether a transaction is contrary to public interest.

**Paragraph (b)** allows the attorney general to enforce this section under the section governing the attorney general's additional duties.

**Paragraph (c)** provides that the failure of entities to provide timely information as required by the attorney general or commissioner of health is an independent and sufficient ground for a court to enjoin the transaction or provide other equitable relief as long as certain conditions are met.

**Paragraph (d)** requires the attorney general to consult with the commissioner of health to determine whether a transaction is contrary to the public interest. Designates any information exchanged between the attorney general and the commissioner is confidential data on individuals or protected nonpublic data. Allows the commissioner to share any not public data held by the Department of Health with the attorney general to help in the investigation and review of a transaction.

**Subdivision 6 [Supplemental authority of commissioner]** allows the commissioner of health to use data or information submitted under this section, section 62U.04, and sections 144.695 to 144.705 to conduct analyses of the aggregate impact of health care transactions. Requires the commissioner to issue periodic public reports on the number and type of transactions subject to this section and their aggregate impact.

**Subdivision 7 [Relation to other law]** states that the powers and authority under this section are in addition to and do not affect or limit all other rights, powers, and authority of the attorney general or commissioner of health under chapters that govern the attorney general, social and charitable trusts, nonprofit corporations, restraint of trade, or charitable trusts. Also states that nothing in this section suspends any obligations imposed under those chapters on entities involved in a transaction.

Section 1 has an effective date the day following final enactment and applies to all transactions completed on or after that date.

**Section 2 (Laws 2017, First Special Session chapter 6, article 5, section 11, as amended by Laws 2019, First Special Session chapter 9, article 8, section 20; Moratorium on Conversion Transactions)** extends the moratorium on conversion transactions to July 1, 2026. States the effective date is the day following final enactment.

**Section 3 [Appropriations]** contains a blank appropriation from the general fund to the commissioner of health for the purposes of Section 1.