


# Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1102

# RULE REVIEW CHECKLIST

DATE RULE RECEIVED 10-23-84
DATE FOR REVIEW 11-1-84
DATE DUE 11-6-84

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 11-6-84 MJC Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 11-6-84 Revisor approved 11/2/84 disapproved _____

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✓ Rule as Adopted

✓ Rule as Proposed

? Order Adopting 10.18.84 Date cites APA as authority rather than specific statutory authority

✓ Notice of Intent to Solicit Outside Opinion SR. 6.18.84

_____ Order for rulemaking
_____ date of Hearing not submitted

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
_____ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
9.18.84 At least 30 days prior to hearing/adoption

✓ Mailing list Certificate

✓ Publication in State Register
9.17.84 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

# Office Memorandum

TO: Judith Wehrwein
Legal Assistant
Administrative AG's
204 Administration Building

DATE: Oct. 23, 1984

FROM: Rose Weiner for Richard Gomsrud, Dept. Counsel
Commerce Rule Tracker

PHONE: 6-3528
6-5689

SUBJECT: HEALTH Maintenance Organizations Proposed Rules #555

Enclosed please find the rules. We await your approval.

Peggy Bunch - 6-3258

RECEIVED
OCT 23 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

# Office Memorandum

TO : Michael A. Hatch, Commissioner
Department of Commerce

DATE: November 6, 1984

ATTN: Peggy Bunch
Special Assistant Attorney General

FROM : Martha J. Casserly MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules Relating to Health Maintenance Organizations

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

MJC:slz
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Commerce

Adopted Rules Governing Health Maintenance Organizations

Rules as Adopted

2730.0200 AUTHORITY AND PURPOSE.

Parts 2730.0200 to 2730.0700 are promulgated pursuant to the authority granted by Laws of Minnesota 1973, chapter 607, sections 10, subdivision 4, and 19, and by Minnesota Statutes, sections 14.05 to 14.36, for the purpose of setting forth rules and procedural standards that the commissioner of commerce deems necessary to carry out the provisions of the act.

2730.0300 EXAMINATION OF AGENTS, SOLICITORS, AND BROKERS.

Pursuant to Minnesota Statutes, section 62D.22, subdivision 8, and in accordance with Minnesota Statutes 1971, section 60A.17, and agents' license rules of the Department of Commerce, part 2700.0700, the commissioner shall conduct written examinations for the licensing of health maintenance organization agents, solicitors, and brokers. Such examinations shall be designed to determine:

A. the abilities and qualifications of each license applicant to protect the rights of health maintenance organizations, enrollees, providers association with health maintenance organizations, and the general public relative to solicitations for enrollment in health maintenance organizations; and

B. each license applicant's familiarity with enrollee obligations, rights, and duties under health maintenance contracts and evidences of coverage, health service benefits thereunder, charges for and limitations upon services, and the authorized forms of solicitation and advertising of health maintenance organization services.

2730.0400 SPECIAL EXAMINATIONS

Upon application in writing, affirmatively showing the reason or reasons therefor, the commissioner of commerce may

conduct special examinations for purposes of authorizing solicitation or advertising limited in scope or duration or for particular requirements of health maintenance organization agent, solicitor, and broker license applicants.

2730.0500 DETERMINATION OF UNREASONABLE EXPENSES.

Not less frequently than once every three years, the commissioner of health or the commissioner of commerce shall determine whether any expense a health maintenance organization incurs or pays is unreasonably high in relation to the value of any service or good provided to it. In making such determinations, to the extent possible, due consideration shall be given to:

A. the expense incurred or paid by other health maintenance organizations and other health care delivery systems for the same or similar service or goods;

B. the cost of such service or goods to the supplier thereof;

C. the impact of such expense upon the finance solvency of the health maintenance organization;

D. all pertinent cost/service data obtained or obtainable by the commissioner of health from the health maintenance organization pursuant to Minnesota Statutes, sections 62D.03, 62D.04, 62D.08, 62D.10, and 62D.14;

E. guidelines developed and published pursuant to Minnesota Statutes, section 145.61, subdivision 5, clause (e);

F. pertinent data available from any rating organization approved by the commissioner of commerce;

G. such other information and information collection techniques as the commissioner of health may employ that show the real cost or fair market value of such service or goods; and

H. whether the officers and trustees of the health maintenance organization have acted with good faith and in the best interests of the health maintenance organization in entering into, and performing under, a contract under which the health maintenance organization has incurred an expense.

2730.0600 COMMISSIONER'S ENFORCEMENT AUTHORITY.

Upon a finding by the commissioner of health or the commissioner of commerce that a health maintenance organization is incurring or paying for any expense that is unreasonably high in relation to the value of the service or goods provided, the commissioner of health may:

A. issue an order pursuant to Minnesota Statutes, section 62D.17;

B. consider the unreasonable expense to constitute a failure of the health maintenance organization to satisfy Minnesota Statutes, section 62D.12, subdivision 9, paragraph (c) or 62D.15, subdivision 1, paragraph (i) and to proceed accordingly; or

C. exercise such other statutory power as is available to him and that he deems appropriate.

2730.0700 INTERAGENCY AGREEMENT.

The commissioner of commerce may by agreement with the commissioner of health provide procedures for the implementation and coordinated enforcement of part 2730.0500.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV - 6 1984
Joan Anderson Growe
Secretary of State

10:05 AM

APPROVED AS TO FORM AND LEGALITY
November 6 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed

2730.0200 AUTHORITY AND PURPOSE.

Parts 2730.0200 to ~~2730.0600~~ 2730.0700 are promulgated pursuant to the authority granted by Laws of Minnesota 1973, chapter 607, sections 10, subdivision 4, and 19, and by Minnesota Statutes, sections 14.05 to 14.36, for the purpose of setting forth rules and procedural standards that the commissioner of commerce deems necessary to carry out the provisions of the act.

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A. the abilities and qualifications of each license applicant to protect the rights of health maintenance organizations, enrollees, providers association with health maintenance organizations, and the general public relative to solicitations for enrollment in health maintenance organizations; and

B. each license applicant's familiarity with enrollee obligations, rights, and duties under health maintenance contracts and evidences of coverage, health service benefits thereunder, charges for and limitations upon services, and the authorized forms of solicitation and advertising of health maintenance organization services.

2730.0400 SPECIAL EXAMINATIONS

Upon application in writing, affirmatively showing the reason or reasons therefor, the commissioner of commerce may conduct special examinations for purposes of authorizing solicitation or advertising limited in scope or duration or for particular requirements of health maintenance organization

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

agent, solicitor, and broker license applicants.

2730.0500 DETERMINATION OF UNREASONABLE EXPENSES.

Not less frequently than once every three years, the commissioner of health or the commissioner of commerce shall determine whether any expense a health maintenance organization incurs or pays is unreasonably high in relation to the value of any service or good provided to it. In making such determinations, ~~the commissioner shall,~~ to the extent possible, ~~give~~ due consideration shall be given to:

A. the expense incurred or paid by other health maintenance organizations and other health care delivery systems for the same or similar service or goods;

B. the cost of such service or goods to the supplier thereof;

C. the impact of such expense upon the finance solvency of the health maintenance organization;

D. all pertinent cost/service data obtained or obtainable by the ~~board~~ commissioner of health from the health maintenance organization pursuant to Minnesota Statutes, sections 62D.03, 62D.04, 62D.08, 62D.10, and 62D.14;

E. guidelines developed and published pursuant to Minnesota Statutes, section 145.61, subdivision 5, clause (e);

F. pertinent data available from any rating organization approved by the commissioner of commerce; ~~and~~

G. such other information and information collection techniques as the commissioner of health may employ that show the real cost or fair market value of such service or goods; and

H. whether the officers and trustees of the health maintenance organization have acted with good faith and in the best interests of the health maintenance organization in entering into, and performing under, a contract under which the health maintenance organization has incurred an expense.

2730.0600 COMMISSIONER'S ENFORCEMENT AUTHORITY.

Upon a finding by the commissioner of health or the commissioner of commerce that a health maintenance organization

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

is incurring or paying for any expense that is unreasonably high in relation to the value of the service or goods provided, the commissioner of health may:

~~A. exercise the enforcement authority granted him pursuant to Minnesota Statutes, sections 72A.17 to 72A.32;~~

~~B.~~ issue an order pursuant to Minnesota Statutes, section ~~62B.18~~ 62D.17;

~~C. report such finding to the board and recommend the exercise of any authority available to the board pursuant to Minnesota Statutes, sections 62B.15 to 62B.17;~~

B. consider the unreasonable expense to constitute a failure of the health maintenance organization to satisfy Minnesota Statutes, section 62D.12, subdivision 9, paragraph (c) or 62D.15, subdivision 1, paragraph (i) and to proceed accordingly; or

~~B.~~ C. exercise such other statutory power as is available to him and that he deems appropriate.

2730.0700 INTERAGENCY AGREEMENT.

The commissioner of commerce may by agreement with the commissioner of health provide procedures for the implementation and coordinated enforcement of part 2730.0500.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD555

Agency: Department of Commerce

Division:

Agency Contact: Dick Gomsrud

Minnesota Rules: Parts 2730.0200 to 2730.0700

Title: Proposed Rules Governing Health Maintenance Organizations

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: August 29, 1984

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Health Maintenance Organizations

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on September 17, 1984 , 1984 and was sent by the United States mail to all persons on the list maintained by the Department of Commerce pursuant to Minn. Stat. Section 14.14, subd. 1a, on September 18, 1984.

After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five (25) written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Health Maintenance Organizations are adopted this 18th day of October, 1984 pursuant to authority vested in me by Minn. Stat. Section 14.05 to 14.36.

MICHAEL A. HATCH
Commissioner of Commerce

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Barb Lessard, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-6313.

All statements of information and comment shall be accepted until July 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

# Department of Commerce

## Outside Opinion Sought Regarding Proposed Rules Relating to Fees for Rate and Form Filings Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules govenring fees for rate and form filings. Promulgation of these rules is authorized by Minnesota Statutes, section 60A.14, subdivision 1(c).

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Don Peterson, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-2656.

All statements of information and comment shall be accepted until July 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

# Department of Commerce

## Outside Opinion Sought Regarding Proposed Amendments to Rules Relating to Health Maintenance Organizations Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate amendments to rules governing health maintenance organizations. Promulgation of these rules is authorized by Minnesota Statutes, sections 14.05 to 14.36.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Dick Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-5689.

All statements of information and comment shall be accepted until July 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

# Department of Energy and Economic Development

## Notice of Initial Allocations of Issuance Authority for Calendar Year 1984

Notice to all Industrial Development Bond Issuers and Interested Parties:

The Department of Energy and Economic Development has determined the initial amounts of issuance authority for calendar year 1984 allocated to entitlement issuers submitting certifications of previous use to the Department pursuant to Minn. Laws 1984, ch. 582 § 15, to be codified as Minn. Stat. § 474.18, subd. 2. The initial allocations set forth below are subject to change after enactment of a federal limitation act as defined in Minn. Laws 1984, ch. 582 § 13, to be codified as Minn. Stat. § 474.16

State of Minnesota
Department of Commerce

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to Rules Relating to Health Maintenance Organizations including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate amendments to rules governing health maintenance organizations. Promulgation of these rules is authorized by Minnesota Statutes, sections 14.05 to 14.36.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Dick Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-5689.

All statements of information and comment shall be accepted until July 18, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Health Maintenance Organizations

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 14.05 to 14.36. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Robin Hanson, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Robin Hanson at the above address.

Michael A. Hatch

In the Matter of the Proposed Adoption of
Rules Relating to Health Maintenance
Organizations

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA )
) ss.
COUNTY OF RAMSEY )

Robin Hanson, being first duly sworn, deposes and says:

That on the 18th day of September, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Robin Hanson

Subscribed and sworn to before me this
18th day of September, 1984.

Nancy J. Zeik



STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Rules Relating to Health Maintenance
Organizations

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 18th day of September, 1984.

Robin Hanson

Robert R. Abrohams
Robert R. Abrohams Agency, Inc.
1112 Plymouth Bldg.
Minneapolis, MN 55402

John B. LaMacchia & Associates
Actuaries Management Consultants
12 North Central Avenue
St. Louis, MO 63105

Sam Runle
Office of Administrative Hearings
400 Summit Bank Building
Minneapolis, MN 55415

Joseph T. Justice, Counsel
Alexander Howden Group U.S. Inc.
P.O. Box 19539
Atlanta, GA 30325

Alliance of American Insurers
Attn: Debra G. Wozniak
1501 Woodfield Rd., Suite 400 West
Schaumberg, IL 60195

Willys P. Jones
Allison-Williams Co.
2300 IDS Center
Minneapolis, MN 55402

Mr. Robert J. Demichelis
American Council of Life Insurance
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Washington, DC 20006

Fred McGarvey
American Insurance Association
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Chicago, IL 60606

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Associated Builders & Contractors
6300 Walker Street, Room 109
Minneapolis, MN 55416

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Association of Minnesota Counties
555 Park Street, Suite 300
St. Paul, MN 55103

R. G. Lanham, Dir. of Research
Carleton Financial Computations
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Glen Tullman
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St. Paul, MN 55102

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1500 Midwest Plaza Building
Minneapolis, MN 55402

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7850 Metro Pkway., Suite 213
Bloomington, MN 55420

Investment Company Institute
1775 K Street NW
Washington, DC 20006

J. David Wise
Investors Diversified Serv., Inc.
IDS Tower

Stan Jacobson
Research Dept., State of MN
Room 17, State Capitol
St. Paul, MN 55155

Kathleen P. Burek
Exec. Dir., LCRAR
Rm. 510, State Office Building
St. Paul, MN 55155

Susan J. Ladwig
900 Midland Bank Building
Minneapolis, MN 55401

Richard H. Smith, Dir.
Dept. of Land Registration
P.O. Box 569
Bentonville, AR 72712

Vincent A. Pellerito, President
Land Registrations, Inc.
4603 N. 16th St., Suite 2
Phoenix, AZ 85016

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575 University Avenue
St. Paul, MN 55103

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St. Paul, MN 55155

Mr. Ronald R. Radtke, Mgr., Comp. Svcs.
Metropolitan Prop. & Liability Ins. Co.
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Warwick, RI 02887

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Midland Glass Company, Inc.
P.O. Box 69
Shakopee, MN 55379

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J. T. Miller Company
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Minneapolis, MN 55403

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Minneapolis, MN 55402

Gene Johannes
Minnesota Chiropractic Assoc.
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St. Paul, MN 55113

Minn. Consumer Finance Confer.
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St. Paul, MN 55101

Jean Dawson
Minn. Government Report
B-12 Press Room, State Capitol
St. Paul, MN 55155

Minnesota League of Credit Unions
575 University Ave.
St. Paul, MN 55103

Joan M. Archer
Minn. Mfg. Housing Assoc.
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St. Paul, MN 55117

Ms. Lois Wattman DeWitt
Minnesota Medical Association
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Minneapolis, MN 55414

James N. Denn
Minnesota Motor Transport Assn.
1821 University Ave., Room 134N

Minn. Petroleum Council
1025 Northern Federal Bldg.
St. Paul, MN 55102

John Van Doorn
Minn. Retail Merchants Assoc.
180 Metro Square Bldg.
St. Paul, MN 55101

Minn. School of Real Est. Inc.
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Oxboro Plaza Bldg.
Bloomington, MN 55420

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St. Paul, MN 55114

Abe Rosenthal, Exec. Vice Pres.
Minn. Transport Services Assn.
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St. Paul, MN 55104

Philip B. Sears, Esq.
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2200 Classen Blvd., 4th Fl.
Oklahoma City, OK 73106

Michael J. Ahern
Moss & Barnett
200 S. Sixth St.
Minneapolis, MN 55402

John F. Stone
Moss & Barnett
200 S. Sixth St.
Minneapolis, MN 55402

NIARS Corporation
Three Eighteen West Franklin
Minneapolis, MN 55404

Mark A. Welshons, Secretary
NWNL Reinsurance Company
P.O. Box 20
Minneapolis, MN 55440

John B. Crosby, V.P. & Gen. Couns.
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2600 River Road

William R. Anderson, Counsel
Natl. Assoc. of Life Underwriters
1922 F Street, NW
Washington, D.C. 20006

Richard Bouhan, Gov't. Relations Dir.
Natl. Assoc. of Prof. Surplus Lines Off.
P.O. Box 1507
Roswell, GA 30077

Lee T. Peterson
Nelson, Nelson, Kufus & Assoc.
665 N. Snelling Ave.
St. Paul, MN 55104

Ohio State Life Insurance Company
Attn: Harold I. Phillian
471 E. Broad Street
Columbus, OH 43215

Orion Group, Inc.
Law Division
9 Farm Springs Dr.
Farmington, CT 06032

Howard McDowell, I-5
Pennsylvania Life Insurance Company
3130 Wilshire Blvd.
Santa Monica, CA 90406

Roger A. Peterson
Peterson, Engberg & Peterson
700 Title Insurance Bldg.
Minneapolis, MN 55401

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
345 Cedar Building, Suite 800
St. Paul, MN 55101

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

Celeste B. Relyea, Dir. of St. Affairs
Professional Insurance Agents
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Alexandria, VA 22314

Bruce A. Poulsen, V.P. & Counsel
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8th Fl., P.O. Box 1143

Charles A. Kroeger
QSS, Inc.
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Faribault, MN 55021

James M. Shamberger, Vice President
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# PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

# Department of Commerce

## Proposed Rules Governing Health Maintenance Organizations

### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Richard Gomsrud, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 14.05 to 14.36. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Robin Hanson, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Robin Hanson at the above address.

Michael A. Hatch
Commissioner of Commerce

## Rules as Proposed

**2730.0200 AUTHORITY AND PURPOSE.**

Parts 2730.0200 to ~~2730.0600~~ 2730.0700 are promulgated pursuant to the authority granted by Laws of Minnesota 1973, chapter 607, sections 10, subdivision 4, and 19, and by Minnesota Statutes, sections 14.05 to 14.36, for the purpose of setting forth rules and procedural standards that the commissioner of commerce deems necessary to carry out the provisions of the act.

**2730.0300 EXAMINATION OF AGENTS, SOLICITORS, AND BROKERS.**

Pursuant to Minnesota Statutes, section 62D.22, subdivision 8, and in accordance with Minnesota Statutes 1971, section 60A.17, and agents' license rules of the ~~insurance division~~ Department of Commerce, part 2700.0700, the commissioner shall conduct written examinations for the licensing of health maintenance organization agents, solicitors, and brokers. Such examinations shall be designed to determine:

A. the abilities and qualifications of each license applicant to protect the rights of health maintenance organizations, enrollees, providers association with health maintenance organizations, and the general public relative to solicitations for enrollment in health maintenance organizations; and

B. each license applicant's familiarity with enrollee obligations, rights, and duties under health maintenance contracts and evidences of coverage, health service benefits thereunder, charges for and limitations upon services, and the authorized forms of solicitation and advertising of health maintenance organization services.

**2730.0400 SPECIAL EXAMINATIONS.**

Upon application in writing, affirmatively showing the reason or reasons therefor, the commissioner of commerce may conduct special examinations for purposes of authorizing solicitation or advertising limited in scope or duration or for particular requirements of health maintenance organization agent, solicitor, and broker license applicants.

**2730.0500 DETERMINATION OF UNREASONABLE EXPENSES.**

Not less frequently than once every three years, the commissioner of health or the commissioner of commerce shall determine whether any expense a health maintenance organization incurs or pays is unreasonably high in relation to the value of any service or good provided to it. In making such determinations, ~~the commissioner shall,~~ to the extent possible, ~~give~~ due consideration shall be given to:

A. the expense incurred or paid by other health maintenance organizations and other health care delivery systems for the same or similar service or goods;

B. the cost of such service or goods to the supplier thereof;

C. the impact of such expense upon the finance solvency of the health maintenance organization;

D. all pertinent cost/service data obtained or obtainable by the ~~board~~ commissioner of health from the health maintenance organization pursuant to Minnesota Statutes, sections 62D.03, 62D.04, 62D.08, 62D.10, and 62D.14;

E. guidelines developed and published pursuant to Minnesota Statutes, section 145.61, subdivision 5, clause (e);

F. pertinent data available from any rating organization approved by the commissioner of commerce; ~~and~~

G. such other information and information collection techniques as the commissioner of health may employ that show the real cost or fair market value of such service or goods; and

H. whether the officers and trustees of the health maintenance organization have acted with good faith and in the best interests of the health maintenance organization in entering into, and performing under, a contract under which the health maintenance organization has incurred an expense.

**2730.0600 COMMISSIONER'S ENFORCEMENT AUTHORITY.**

Upon a finding by the commissioner of health or the commissioner of commerce that a health maintenance organization is incurring or paying for any expense that is unreasonably high in relation to the value of the service or goods provided, the commissioner of health may:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A. ~~exercise the enforcement authority granted him pursuant to Minnesota Statutes, sections 72A.17 to 72A.32;~~

~~B.~~ issue an order pursuant to Minnesota Statutes, section ~~62D.18~~ 62D.17;

~~C. report such finding to the board and recommend the exercise of any authority available to the board pursuant to Minnesota Statutes, sections 62D.15 to 62D.17;~~

B. consider the unreasonable expense to constitute a failure of the health maintenance organization to satisfy Minnesota Statutes, section 62D.12, subdivision 9, paragraph (c) or 62D.15, subdivision 1, paragraph (i) and to proceed accordingly; or

~~D.~~ C. exercise such other statutory power as is available to him and that he deems appropriate.

**2730.0700 INTERAGENCY AGREEMENT.**

The commissioner of commerce may by agreement with the commissioner of health provide procedures for the implementation and coordinated enforcement of part 2730.0500.

# Department of Commerce

## Proposed Rules Relating to Subdivided Lands Registration

### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Lorraine Rowe, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 83.38. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Robin Hanson, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Robin Hanson at the above address.

Michael A. Hatch
Commissioner of Commerce

### Rules as Proposed

**2810.2100 PREPARING APPLICATIONS FOR REGISTRATION BY QUALIFICATION.**

The guidelines set forth hereafter are intended to indicate the form and informational content of an application for registration required by the commissioner of commerce. These guidelines shall be applicable to applications filed for

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of Proposed Rules
Relating to Health Maintenance
Organizations

STATEMENT OF NEED
AND REASONABLENESS
OF PROPOSED RULES

## STATEMENT OF AUTHORITY

Minnesota Statutes § 62D.19, provides that the commissioner of commerce shall promulgate rules to assure that no health maintenance organization shall incur or pay for any expense of any nature which is unreasonably high in relation to the value of the service that is provided. Rules have previously been adopted in regard to this section. The 1984 session of the Minnesota Legislature amended Minnesota Statutes § 62D.19 (Chapter 464, Section 41, Laws of Minnesota 1984), by adding the following language:

In an effort to achieve the stated purposes of 62D.01 to 62D.29; in order to safeguard the underlying nonprofit status of health maintenance organizations; and to ensure that the payment of health maintenance organization moneys to major participating entities results in a corresponding benefit to the health maintenance organization and its enrollees, when determining whether an organization has incurred an unreasonable expense in relation to a major participating entity, due consideration shall be given to, in addition to any other appropriate factors, whether the officers and trustees of the health maintenance organization have acted with good

faith and in the best interests of the health maintenance organization in entering into, and performing under, a contract under which the health maintenance organization has incurred an expense.

In addition, Section 44 of the aforementioned Chapter 464 also provided for an interagency agreement between the commissioners of health and commerce to carry out coordination of the laws pertaining to health maintenance organizations.

## FACTS ESTABLISHING NEED AND REASONABLENESS

As a result of the statutory changes cited in the Statement of Authority, amendments to the existing rules were necessary to bring the rules into compliance with the statutory changes. Without the changes the coordination of activity between the department of health and department of commerce are not provided for nor are the additional criteria which the Legislature indicated needed to be considered under Minnesota Statutes § 62D.19.

Part 2730.0200 Authority and Purpose.

This section is amended to reflect the addition of a new rule allowing for the interagency agreement called for in Section 44 of Chapter 464, Laws of Minnesota 1984 and also reflected the reorganization of the department of commerce which created a single commissioner of commerce instead of the previous commissioners of

commerce, banking, and securities and real estate. Commissioner of commerce is substituted for commissioner of insurance as it existed in the prior rule.

Part 2730.0300 Examination of Agents, Solicitors, and Brokers.

As a result of the reorganization of the department of commerce, the former insurance division no longer exists. Accordingly, the rule was changed to reflect that the department of commerce is its successor.

Part 2730.0400 Special Examinations.

As stated in regard to the foregoing two parts, the commissioner of insurance has been replaced by a commissioner of commerce and this part was amended to reflect that change.

Part 2730.0500 Determination of Unreasonable Expenses.

Section 44 of Chapter 464, Laws of Minnesota 1984, provided for the coordination of enforcement in regard to health maintenance organization between the commissioners of health and commerce. The rules which previously existed provided that the commissioner of insurance (now the commissioner of commerce) was to make a determination as to reasonableness of a health maintenance organization's expenses. The rule has been changed to provide that this may be accomplished by either the commissioner of commerce or the commis-

sioner of health. Grammatical changes also were necessary in the first paragraph to reflect that either of the commissioners may so act.

Subpart D of Part 2730.0500, recognizes that the commissioner of health has replaced the board in regard to the cited statutory sections.

Subparts F and G of Part 2730.0500, specify which of the two commissioners are charged with obtaining the information and data specified. The words "of commerce," were added to part F to clarify which commissioner was referred to. It does not constitute a change from the present rule which charged the commissioner of commerce with that responsibility.

Subpart G recognizes that the commissioner of health as part of his ongoing authority maintains the information in regard to the costs of services and goods in the health care field not the commissioner of commerce.

Subpart H was added to reflect the statutory change of Minnesota Statutes § 62D.19 (Section 41, Chapter 464, Laws of Minnesota 1984) which required that consideration be given to whether or not the officers and trustees of the health maintenance organization are properly carrying out their duties and acting in the best interest of the organizations when incurring expenses.

This was amended to recognize that both the commissioner of health or the commissioner of commerce may make a finding that an expense has been incurred or paid which is unreasonably high. The rule has also been changed to reflect the fact that the commissioner of health has by statute the authority to take enforcement action for such violations, not the commissioner of commerce. The previous rule had assumed that right for the commissioner of commerce whose authority to act in that manner was not clearly statutorily mandated. The change reflects the statutory scheme for enforcment set forth in Chapter 62D. As a result of those changes, Section A of the previous rule was deleted as it described powers of the commissioner of commerce not the commissioner of health. Reference to Minnesota Statutes § 62D.18 was changed to Minnesota Statutes § 62D.17 to reference the authority of the commissioner of health to take enforcement action. The previous reference to Minnesota Statute § 62D.18 pertained to the commissioner of commerce's authority in regard to rehabilitation, liquidation or conservation of a health maintenance organization.

Section C was deleted because the board referred to in that section no longer carries out the functions indicated. The commissioner of health has taken over that authority.

A new Section D was added acknowledging the criteria presently available to the commissioner of health to act in regard to other payments and activities of the health maintenance organization which give rights to the authority of the commissioner of commerce to take action against the health maintenance organization.

Previous D was renumbered to Section C to reflect the foregoing changes.

Part 2730.0700

This was added to carry out the legislative intent as previously cited for the departments of commerce and health to act in concert in regard to the regulation of health maintenance organizations.

## SMALL BUSINESS CONSIDERATIONS

While it was determined that it was highly unlikely that any health maintenance organization that would be subject to these rules would be a small business, the possibility of modifying the rules for any health maintenance organization that would be determined to be a small business organization was considered. However, no valid criteria in regard to the scope and effect of these rules could be determined which would allow for their enforcement in a manner different for a small business than from other health maintenance organizations.

The purpose of the rules is to protect the financial integrity of the health maintenance organization and to protect the members of the health maintenance organization by prohibiting the payment of unreasonable expenses. Due to the nature of the intent of the statute and the parties whom it was intended to protect all health maintenance organizations would have to be treated equally so as not to defeat the purpose of the statute and the rules.

In the Matter of the Proposed Adoption of Rules Governing Health Maintenance Organizations

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Peggy L. Bunch, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Peggy L. Bunch
Special Assistant Attorney General

Dated: October 22, 1984

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to the Health Maintenance Organizations

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA )
) ss.
COUNTY OF RAMSEY )

Richard G. Gomsrud, being first duly sworn, deposes and says:

That to date, no person has requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Richard G. Gomsrud

RICHARD G. GOMSRUD
General Counsel, Department of Commerce

Subscribed and sworn to before me this 19th day of October, 1984.

Nancy I. Link

NANCY I. LINK
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov. 22, 1984