



May 5, 2017

Honorable Mark Dayton  
Office of the Governor  
75 Rev. Dr. Martin Luther King Jr. Blvd  
St. Paul, MN 55155

Rep. Kurt Daudt, Speaker of the House  
State Office Building, Room 463  
100 Rev. Dr. Martin Luther King Jr. Blvd  
St. Paul, MN 55155

Sen. Paul Gazelka, Senate Majority Leader  
Minnesota Senate Building, Room 3113  
95 University Ave W.  
St. Paul, MN 55155

Dear Governor Dayton, Speaker Daudt and Majority Leader Gazelka,

We would like to draw your attention to a troubling policy section of the Delete-All Amendment of the HHS Omnibus bill: Article 5, Section 10, **[317A.814] Nonprofit Health Care Entity Conversions.**

The Premium Relief bill, SF 1, which became law on January 26, 2017, repealed the longstanding ban on for-profit HMOs in Minnesota.

Now, under consideration in the HHS omnibus conference committee are requirements for non-profit (tax-exempt) health plans that choose to convert to for-profit corporations. The tax-exempt status of Minnesota health plans provided a competitive advantage for more than two decades against tax-paying for-profit insurers. A few non-profit health plans now control the entire Minnesota market. Former for-profit indemnity insurers, for example, have left the state or dissolved.

The language in the original SF 800, authored by HHS Chair Senator Michelle Benson, included significant oversight and protections against private inurement and self-interested choices by tax-exempt health plans of “conversion benefit entities” for transfer of assets during the conversion process.

However, a Delete-All amendment was added to the HHS Omnibus bill on Monday, May 1, 2017. Many of the protective provisions that were in the Senate version of the Omnibus HHS bill have been deleted. The bill is on hold for further consideration pending negotiations between leadership and the Governor.

**Deletions include:**

- The requirement for approval of the conversion by the Attorney General – or anyone
- The penalties and remedies section for a “conversion transaction entered into in violation of this section”

- The requirement that “The conversion benefit entity must be completely independent of any influence or control by the nonprofit health care entity and related organizations...” *(line 222.18, SF 800, 3<sup>rd</sup> Engrossment)*
- Consultation between the AG and the commissioner of commerce to approve or disapprove conversion
- The requirement that the nonprofit health plan “transfer the entirety of the full and fair value of its public benefit assets to one or more conversion benefit entities as part of the transaction” *(line 223.17, SF 800, 3<sup>rd</sup> Engrossment)*
- Annual report requirement for the conversion benefit entity to give a “detailed description of its charitable activities related to the use of the public benefit assets received under a transaction...” *(e.g. merger, conversion, consolidation)*

Also, private inurement prohibitions were changed from "any type of compensation" *(line 220.20, SF 800)* to "any type of **onetime** compensation" in line 239.9 *(DE Amendment A17-0409)*. In addition, definition of “Public benefit assets” changed from “**the entirety** of a nonprofit health care entity’s assets, whether tangible or intangible” in SF 800 *(line 220.10)* to:

1. Assets that represent net earnings that were required to be devoted to the nonprofit purposes of the health maintenance organization according to Minnesota Statutes 2016, Section 62D.12; and
2. Other assets that are identified as dedicated for a charitable or public purpose. *(line 238.25, DE Amendment A17-0409)*.

Finally, nothing in the bill prohibits the health plans from setting up directly or indirectly a “new nonprofit corporation” *(240.31, DE Amendment A17-0409)* for the assets gained under their tax-exempt status.

Although the DE Amendment says non-profit health plans must transfer “public benefit assets” to a conversion benefit entity that is “dedicated to meeting the health care needs of the people of this state,” this ‘dedication’ requirement will be defined by the health plan. Approval of the conversion, choice of “conversion benefit entity,” and transfer of assets is no longer required due to changes by the DE Amendment.

Thus, we are concerned that the language in the bill will allow health plans to funnel millions of dollars to non-profit groups that align with the health plan’s policy initiatives or other agendas.

We urge you to reconsider this language, and ask for reinstatement of the more protective language in SF 800, the 3<sup>rd</sup> Engrossment.

Sincerely,



Twila Brase, RN, PHN  
President and Co-founder