

Fifty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1094

Introduced by

Human Services Committee

(At the request of the State Department of Health)

1 A BILL for an Act to amend and reenact section 23-17.5-02 of the North Dakota Century Code,  
2 relating to health care cooperative agreements.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 23-17.5-02 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **23-17.5-02. Discussions or negotiations - Certificate of public advantage.** A  
7 health care provider may discuss preliminary matters toward, or may negotiate, a cooperative  
8 agreement with another health care provider or third-party payer if the likely benefits to health  
9 care consumers which may result from the agreement outweigh the disadvantages attributable  
10 to a potential reduction in competition that may result from the agreement. The parties to a  
11 cooperative agreement may apply to the department for a certificate of public advantage  
12 governing the agreement. Although a health care provider or third-party payer is not required  
13 to apply for a certificate of public advantage, a party that does not apply for a certificate does  
14 not receive the exclusion from state antitrust enforcement and intended federal antitrust  
15 immunity provided by section 23-17.5-10. The application must include an executed copy of  
16 the cooperative agreement and must describe the nature and scope of the cooperation in the  
17 agreement and any consideration passing to any party under the agreement. The applicants  
18 shall file a copy of the application and related materials with the attorney general and the  
19 department. The department shall review the application and shall hold a public hearing on the  
20 application. The department shall grant or deny the application within ~~ninety~~ one hundred  
21 eighty days of the date of filing of the application. The decision must be in writing and must set  
22 forth the basis for the decision. The department shall furnish a copy of the decision to the  
23 applicants, the attorney general, and any intervenor.