

Fifty-eighth
Legislative Assembly
of North Dakota

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 sections 23-17.5-02 and 23-17.5-12 of the North
2 Dakota Century Code, relating to health care cooperative agreements; and to provide a
3 continuing appropriation.

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

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

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

1 **SECTION 2. AMENDMENT.** Section 23-17.5-12 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **23-17.5-12. Health care cooperative agreement fund - ~~Appropriation~~ Continuing**
4 **appropriations**. The funds in the health care cooperative agreement fund are available as a
5 continuing appropriation to the state department of health, subject to ~~legislative appropriation~~
6 emergency commission approval, for evaluation and active supervision of cooperative
7 agreements among health care providers or third-party payers and for reimbursement to the
8 attorney general for expenses incurred pursuant to this chapter. Any amounts reimbursed to
9 the attorney general under this section are ~~hereby~~ appropriated as a continuing appropriation.