SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 1745

(SENATE AUTHORS: MURPHY and Boldon)

DATE	D-PG	OFFICIAL STATUS
02/16/2023	857	Introduction and first reading Referred to Health and Human Services
03/02/2023	1288	Author added Boldon
04/09/2024		Comm report: To pass as amended and re-refer to Judiciary and Public Safety Joint rule 2.03, referred to Rules and Administration Comm report: Adopt previous comm report Jt rule 2.03 suspended

1.1 A bill for an act

1.2 relating to state government; requiring accounting procedures for accountable
1.3 health care entities receiving eligible state expenditures; authorizing the state
1.4 auditor to examine records of accountable health care entities; establishing the
1.5 Minnesota Commission for Equitable Health Care Services; requiring reports;
1.6 providing appointments; appropriating money; proposing coding for new law in
1.7 Minnesota Statutes, chapter 6; proposing coding for new law as Minnesota Statutes,
1.8 chapter 145E.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. **[6.93] ACCOUNTABLE HEALTH CARE ENTITIES; CERTIFICATION.**

1.11 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
1.12 the meanings given.

1.13 (b) "Accountable health care entity" means any entity that operates in Minnesota and,
1.14 as more than an incidental part of the entity's business activities, provides health care services;
1.15 offers health insurance; reviews, negotiates, or facilitates transactions related to health care
1.16 services or health insurance; sells medical or pharmaceutical equipment, drugs, supplies,
1.17 or related goods; or acts as a producer, agent, broker, intermediary, or contractor to perform
1.18 or facilitate any of the foregoing activities. Accountable health care entity includes, but is
1.19 not limited to the following:

1.20 (1) an entity formed to provide a professional health care service to individuals;

1.21 (2) a utilization review organization, as defined in section 62M.02;

1.22 (3) an entity that owns or controls a facility certified or licensed by the Department of
1.23 Health;

1.24 (4) an entity subject to section 60A.23, subdivision 8;

2.1 (5) a pharmacy benefit manager, as defined in section 62W.02; and

2.2 (6) a manufacturer, pharmacy, retailer, wholesaler, third-party logistics provider, group
2.3 purchasing organization, distributor, or other entity engaged in supplying a drug or medical
2.4 equipment or device.

2.5 (c) "Commission" means the Minnesota Commission for Equitable Health Care Services
2.6 established in section 145E.10.

2.7 (d) "Eligible state expenditure" means any cash, good, benefit, credit, or other asset
2.8 provided by Minnesota to the applicable entity, or any expenditure or cost incurred by
2.9 Minnesota for the benefit of the applicable entity, to serve a health care purpose.

2.10 Subd. 2. **Certification by accountable health care entities.** (a) All accountable health
2.11 care entities that receive an eligible state expenditure must account, to the fullest extent
2.12 practicable, for all receipts, transfers, and uses of eligible state expenditures.

2.13 (b) All accountable health care entities that receive an eligible state expenditure must
2.14 maintain sufficient accounting records to clearly demonstrate, to the fullest extent practicable,
2.15 to the state auditor that all eligible state expenditures have been utilized by the accountable
2.16 health care entity to effectuate the legislative purpose for the eligible state expenditure.

2.17 (c) By December 31, 2025, and each year thereafter, all accountable health care entities
2.18 that received an eligible state expenditure in the calendar year must certify to the state auditor
2.19 that accounting records have been maintained in accordance with paragraph (b) with respect
2.20 to all eligible state expenditures.

2.21 Subd. 3. **Written accounting policies.** (a) All entities subject to subdivision 2, paragraph
2.22 (c), that do not provide the certification required by subdivision 2 must develop and maintain
2.23 written policies and procedures that include a sustainable methodology to implement the
2.24 accounting requirements of this section.

2.25 (b) An accountable health care entity subject to this subdivision must cooperate with
2.26 the state auditor in developing such policies and procedures.

2.27 (c) The written policies and procedures must be made available to: (1) the state auditor;
2.28 and (2) any chair of a legislative committee, upon request.

2.29 Subd. 4. **Commission requests for examination.** Upon receipt of a written request for
2.30 one of the following by the commission, the state auditor must:

2.31 (1) examine all potentially relevant accounts and records of an accountable health care
2.32 entity for compliance with this section; or

3.1 (2) examine all potentially relevant accounts and records of an accountable health care
3.2 entity, with respect to a particular eligible state expenditure, to determine the following:

3.3 (i) the necessity for the eligible state expenditure to have been funded by public funds;
3.4 and

3.5 (ii) the accountable health care entity's budgeting considerations and decisions impacting
3.6 the necessity analysis required by item (i).

3.7 Subd. 5. **Independent state auditor examinations.** (a) The state auditor is empowered
3.8 to examine all accounts and records of an accountable health care entity that received an
3.9 eligible state expenditure in the prior calendar year for compliance with this section. A
3.10 request by the commission under subdivision 4 is not necessary for the state auditor to use
3.11 such authority.

3.12 (b) The state auditor must facilitate the commission's duties set forth in section 145E.10,
3.13 subdivision 11. The state auditor may use all authority under paragraph (a) for the purposes
3.14 of this paragraph.

3.15 Subd. 6. **Report to the commission.** The state auditor must report the findings of any
3.16 examination under this section to the commission. The state auditor must report findings
3.17 resulting from a request under subdivision 4 to the commission within 30 days of the request
3.18 to the state auditor. The state auditor's report to the commission must include any information,
3.19 including comprehensive financial data of the accountable health care entity, that the state
3.20 auditor determines would facilitate the commission's duties set forth in section 145E.10,
3.21 subdivision 11.

3.22 **EFFECTIVE DATE.** This section is effective January 1, 2025.

3.23 Sec. 2. **[145E.10] COMMISSION FOR EQUITABLE HEALTH CARE SERVICES.**

3.24 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
3.25 the meanings given them.

3.26 (b) "Accountable health care entity" has the meaning given in section 6.93.

3.27 (c) "Commission" means the Minnesota Commission for Equitable Health Care Services
3.28 established in this section.

3.29 (d) "Eligible state expenditure" has the meaning given in section 6.93.

3.30 (e) "Personal interest" means that:

4.1 (1) a person owns or controls, directly or indirectly, at least five percent of the voting
4.2 interest or equity interest in the entity;

4.3 (2) the equity interest in the entity owned by a person represents at least five percent of
4.4 that person's net worth; or

4.5 (3) at least five percent of a person's gross income, other than income from fixed wages
4.6 and employment benefits received from the entity, is based, through equity, contract, or
4.7 otherwise, on the entity's revenue.

4.8 Subd. 2. **Public membership.** (a) The Minnesota Commission for Equitable Health
4.9 Care Services consists of nine public members appointed according to section 15.0597, as
4.10 follows:

4.11 (1) one member who is a resident of congressional district 1 appointed by the attorney
4.12 general;

4.13 (2) one member who is a resident of congressional district 2 appointed by the attorney
4.14 general;

4.15 (3) one member who is a resident of congressional district 3 appointed by the speaker
4.16 of the house of representatives;

4.17 (4) one member who is a resident of congressional district 4 appointed by the governor;

4.18 (5) one member who is a resident of congressional district 5 appointed by the majority
4.19 leader of the senate;

4.20 (6) one member who is a resident of congressional district 6 appointed by the minority
4.21 leader of the house of representatives;

4.22 (7) one member who is a resident of congressional district 7 appointed by the minority
4.23 leader of the senate;

4.24 (8) one member who is a resident of congressional district 8 appointed by the governor;
4.25 and

4.26 (9) one member who is a representative of Tribal governments appointed by the governor.

4.27 (b) The appointing authorities under this subdivision must consult with one another to
4.28 ensure to the extent practicable that the public membership of the commission represents
4.29 the diversity of Minnesotans with respect to gender, race, ethnicity, and geography.

4.30 (c) The appointing authorities must complete the initial appointments required under
4.31 this subdivision by August 1, 2024.

5.1 (d) The governor shall designate one public member appointed by the governor to serve
5.2 as the acting chairperson solely for the purposes of planning and convening the first meeting
5.3 of the commission.

5.4 (e) Public members may be removed as provided in section 15.059, subdivision 4.

5.5 Subd. 3. **Commission advisors.** (a) The commission includes 11 nonvoting commission
5.6 advisors appointed according to section 15.0597, as follows:

5.7 (1) one advisor who is a registered nurse and practices nursing in a hospital setting,
5.8 appointed by the Minnesota Nurses Association;

5.9 (2) one advisor who is a licensed traditional midwife, appointed by the Birth Justice
5.10 Collaborative;

5.11 (3) one advisor who is a mental health provider with rural mental health care experience,
5.12 appointed by the National Alliance on Mental Illness, Minnesota;

5.13 (4) one advisor who is living with a disability, appointed by the Minnesota Council on
5.14 Disability;

5.15 (5) one advisor who is a primary care physician with rural health care experience,
5.16 appointed by the Minnesota Medical Association;

5.17 (6) one advisor who is a licensed practical nurse and practices practical nursing in a rural
5.18 health care setting, appointed by the American Federation of State, County, and Municipal
5.19 Employees, Council 65;

5.20 (7) one advisor who is a long-term care provider, appointed by Service Employees
5.21 International Union Healthcare Minnesota and Iowa;

5.22 (8) one advisor who is a representative of the counties, appointed by the Association of
5.23 Minnesota Counties;

5.24 (9) one advisor who is a physician or surgeon whose practice includes trauma and who
5.25 practices in a level 1 trauma center, appointed by Hennepin County Medical Center;

5.26 (10) one advisor who is an employee of a health carrier, as defined in section 62A.011,
5.27 appointed by the Minnesota Council of Health Plans; and

5.28 (11) one advisor who is a hospital administrator with expertise in medical billing,
5.29 appointed by the Minnesota Hospital Association.

6.1 (b) The appointing authorities under this subdivision must consult with one another to
6.2 ensure to the extent practicable that the commission advisor membership represents the
6.3 diversity of Minnesotans with respect to gender, race, ethnicity, and geography.

6.4 (c) The appointing authorities must complete the initial appointments required under
6.5 this subdivision by August 1, 2024.

6.6 (d) Commission advisors may be removed as provided in section 15.059, subdivision
6.7 4.

6.8 Subd. 4. **Legislative membership.** The commission shall include four nonvoting
6.9 legislative members, of whom two must be members of the senate, with one appointed by
6.10 the majority leader of the senate and one appointed by the minority leader of the senate;
6.11 and of whom two must be members of the house of representatives, with one appointed by
6.12 the speaker of the house of representatives and one appointed by the minority leader of the
6.13 house of representatives. The appointing authorities must complete the initial appointments
6.14 required under this subdivision by August 1, 2024.

6.15 Subd. 5. **Ex officio membership.** (a) The commission shall include five nonvoting ex
6.16 officio members, three of whom must be employees of the Department of Health appointed
6.17 by the commissioner of health, one of whom must be an employee of the Office of the
6.18 Attorney General appointed by the attorney general, and one of whom must be an employee
6.19 of the Office of the State Auditor appointed by the state auditor.

6.20 (b) Of the commissioner of health's appointments, one must have expertise in network
6.21 adequacy for managed care plans, one must have expertise in health equity, and one must
6.22 have expertise in rural health.

6.23 (c) The appointing authorities must complete the initial appointments required under
6.24 this subdivision by August 1, 2024.

6.25 Subd. 6. **Limitations on membership.** No member of the commission may be a director,
6.26 manager, managing partner, officer, or executive of, or may have a personal interest in: (1)
6.27 an accountable health care entity; or (2) a direct or indirect affiliate of an accountable health
6.28 care entity.

6.29 Subd. 7. **Chairperson; executive committee.** (a) The commission shall elect a
6.30 chairperson at its first meeting and other officers as it deems necessary.

6.31 (b) The executive committee, or the chairperson if the commission chooses not to elect
6.32 additional officers, may appoint additional subcommittees and work groups as necessary
6.33 to fulfill the duties of the commission.

7.1 Subd. 8. **Meetings.** (a) The appointee of the governor designated by the governor to
7.2 serve as acting chairperson for the purposes of convening the first meeting must convene
7.3 the first meeting of the commission by September 1, 2024.

7.4 (b) The commission meets at the call of the chairperson or at the request of a majority
7.5 of commission members. Meetings of the commission are subject to section 13D.01, and
7.6 notice of its meetings is governed by section 13D.04.

7.7 Subd. 9. **Executive director; staff.** The commission shall appoint an executive director.
7.8 The executive director serves as an ex officio nonvoting member of the executive committee.
7.9 The commission may delegate to the executive director any powers and duties under this
7.10 section that do not require commission approval. The executive director serves in the
7.11 unclassified service and may be removed at any time by a majority vote of the commission.
7.12 The executive director may employ and direct staff necessary to carry out commission
7.13 mandates, policies, activities, and objectives.

7.14 Subd. 10. **Office space; equipment; technical assistance.** (a) The commissioner of
7.15 administration shall provide to the commission, at a reasonable cost, administrative assistance,
7.16 office space, and access to office equipment and services. The commissioner of administration
7.17 may accept outside resources to help support its efforts.

7.18 (b) The commissioners of all departments of state government shall accommodate any
7.19 reasonable requests for technical assistance from the commission as it carries out its duties.
7.20 The commissioners shall leverage their existing vendor contracts to provide the requested
7.21 technical assistance. The commissioners shall receive expedited review and publication of
7.22 competitive procurements for additional vendor support if needed to fulfill the commission's
7.23 request.

7.24 Subd. 11. **Duties.** (a) The commission shall develop and recommend to the legislature
7.25 a plan to provide meaningful availability of health care services to all state residents. In
7.26 developing the plan, the commission shall:

7.27 (1) consult with a representative sample of Minnesota residents, through regional field
7.28 hearings and interviews, regarding their experiences and expectations with respect to
7.29 meaningfully accessing health care services for which they have coverage, including coverage
7.30 through public health care programs;

7.31 (2) consult small business owners, local employers, local government leaders, and local
7.32 health care providers, representing different regions across Minnesota, regarding their
7.33 experiences and expectations with health care costs, coverage, and access to care;

8.1 (3) develop and implement a method to estimate the contribution to the health care
8.2 market in the state attributable to federal, state, and local sources, including direct payments,
8.3 capitation payments, tax expenditures, and subsidies;

8.4 (4) develop and implement a method of investigating the financial and policy instruments
8.5 employed by corporate health care entities to advance, deny, and impair meaningful and
8.6 equitable health care for Minnesotans;

8.7 (5) develop and implement a method of investigating the geographic distribution of
8.8 resources such as hospital beds and specialty services and limited networks of service
8.9 providers, particularly for mental health services, substance use disorder services, obstetrics,
8.10 and long-term services and supports;

8.11 (6) study and make recommendations on transparency of ownership of health care
8.12 facilities and systems and of the role of private equity in the health care market in the state;

8.13 (7) develop and implement a method of investigating the extent and severity of inadequate
8.14 availability of culturally competent care;

8.15 (8) develop and implement a method of investigating incentives to provide equitable,
8.16 competent care;

8.17 (9) study and make recommendations on incentives and disincentives to ensure that
8.18 health care entities continue to provide health care services in rural and other underserved
8.19 communities; and

8.20 (10) conduct other activities the commission considers necessary to carry out the intent
8.21 of the legislature as expressed in this section.

8.22 (b) The commission must review accountable health care entities' activities to identify
8.23 instances where the accountable health care entity has potentially failed to comply with
8.24 section 6.93, including but not limited to where eligible state expenditures have not been
8.25 utilized by the accountable health care entity to effectuate the legislative purpose for the
8.26 eligible state expenditure.

8.27 (c) The commission must notify the state auditor of those instances of potential
8.28 noncompliance that the commission identifies under paragraph (b).

8.29 Subd. 12. **Expenses.** Public members, commission advisors, and ex officio members
8.30 serve without compensation. All members and advisors may have expenses reimbursed as
8.31 provided in section 15.059, subdivision 3.

9.1 Subd. 13. **Data classification.** Data collected by the commission, including but not
9.2 limited to data obtained from the state auditor under section 6.93, is private data on
9.3 individuals as defined in section 13.02, subdivision 12, or nonpublic data as defined in
9.4 section 13.02, subdivision 9.

9.5 Subd. 14. **Contract authority.** The commission may contract with one or more third
9.6 parties to perform its duties.

9.7 Subd. 15. **Reports.** (a) By January 15, 2025, the commission must submit to the chairs
9.8 and ranking minority members of the legislative committees with jurisdiction over health
9.9 an initial report on its progress and other appropriate information.

9.10 (b) By January 15, 2026, and each year thereafter, the commission shall submit to the
9.11 chairs and ranking minority members of the legislative committees with jurisdiction over
9.12 health a final report with proposals to ensure that all Minnesotans have meaningful access
9.13 to equitable health care services, any additional recommendations, draft legislation,
9.14 notifications to the state auditor under subdivision 11, paragraph (c), and the findings and
9.15 outcomes of any resulting investigations by the state auditor.

9.16 Sec. 3. **APPROPRIATION.**

9.17 Subdivision 1. **Minnesota Commission for Equitable Health Care Services.** $.......
9.18 in fiscal year 2025 is appropriated from the general fund to the Minnesota Commission for
9.19 Equitable Health Care Services for purposes of fulfilling duties assigned to the commission
9.20 and is available until June 30, 2027.

9.21 Subd. 2. **Commissioner of administration.** $....... in fiscal year 2025 is appropriated
9.22 from the general fund to the commissioner of administration for the commissioner's duties
9.23 with respect to the Minnesota Commission for Equitable Health Care Services and is available
9.24 until June 30, 2027.