HMO Conversion Study

FINAL REPORT

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HMO Conversion Study, Final Report

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DEPARTMENT OF HEALTH

Protecting, Maintaining and Improving the Health of All Minnesotans

Minnesota Senate
Health and Human Services Committee
The Honorable Melissa Wiklund, Chair, 2107 Minnesota Senate Building

The Honorable Paul Utke, Ranking Member, 2403 Minnesota Senate Building

Human Services Committee
The Honorable John Hoffman, Chair, 2111 Minnesota Senate Building

The Honorable Jim Abeler, Ranking Member, 2207 Minnesota Senate Building

Commerce and Consumer Protection Committee
The Honorable Matt Klein, Chair, 2105 Minnesota Senate Building

The Honorable Gary Dahms, Ranking Member, 2219 Minnesota Senate Building

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The Honorable Tina Liebling, Chair, 477 State Office Building

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The Honorable Zack Stephenson, Chair, 449 State Office Building

The Honorable Tim O'Driscoll, Ranking Member, 237 State Office Building

September 30, 2024

To the Honorable Chairs and Ranking Members:

As part of far-ranging discussions on changes in ownership and governance of Minnesota health systems and Health Maintenance Organizations (HMOs), the 2023 Minnesota Legislature directed the Minnesota Department of Health (MDH) to study and develop recommendations on the regulation of financial transactions that may move assets from nonprofit HMOs to for-profit entities via conversions, mergers, transfers of assets, or other mechanisms. The legislature also required MDH to solicit public input on potential regulation of conversion transactions and provide recommendations to address monitoring and regulation of Minnesota-domiciled for-profit HMOs.

This final report follows a preliminary report released by MDH in February, which described oversight of HMO financial transactions as well as some gaps in those authorities. The legislature addressed many of those gaps for HMOs during the 2024 session for both transactions conducted in the normal course of business and transactions that are much more significant in scale. MDH now has a range of authorities to oversee HMO transactions in much the same manner as the Minnesota Department of Commerce regulates insurers' financial transactions. The legislature established a process by which the Attorney General's Office and state insurance regulators will be able to examine proposed large-scale transactions; ensure those transactions are in the public interest and consistent with other state requirements; and protect the value of nonprofit assets after the transaction is complete.

Since publishing its preliminary report, MDH has conducted additional research on how other states regulate large-scale transactions. MDH researched other states' statutes and conducted key informant interviews with insurance regulators in eight states to learn more about their regulatory processes. MDH learned that Minnesota's law is similar in many respects to approaches taken by other states. There are a limited number of areas where MDH has identified potential opportunities to strengthen Minnesota's new law.

MDH recommends legislators consider the following actions:

- making some technical changes that will help with implementing the new law;
- strengthening opportunities for the public to be informed about proposed large-scale transactions and offer input on them;
- beginning to compare performance across Minnesota's for-profit and nonprofit to HMOs to determine whether meaningful state-level variation in performance exists that may prompt additional legislative or regulatory action; and
- taking an updated look at Minnesota's insurance premium taxation and Medicaid surcharge structure across the state's for-profit and nonprofit health plans to assess whether the current tax structure supports the legislature's intended policy goals

Overall, the legislature made significant strides during the 2024 session in addressing regulatory issues raised in the preliminary report. The recommendations in this report fill in a few additional authorities needed to optimize transparency and the regulatory structure. We look forward to continuing to work with the legislature on these issues.

Sincerely,

/s/ Brooke Cunningham

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Executive Summary

The legislature made significant policy changes to Minnesota's health insurance market in 2017 by allowing for-profit and foreign-domiciled Health Maintenance Organizations (HMOs) to operate in the state. Prior to this time, dating back to 1973 when Minnesota first created a statutory framework for HMOs, these entities were required to be both nonprofit and locally domiciled to operate in the state. When this change was made, the legislature also enacted a moratorium prohibiting nonprofit HMOs from converting into for-profit organizations. The moratorium was established to provide the legislature a window of time to consider whether and how to make any necessary regulatory changes. Other states had experienced such conversions without specific oversight processes in place and those large-scale transactions sometimes resulted either in significant assets moving to for-profit companies and/or protracted processes to preserve assets for nonprofit purposes. That moratorium has been extended several times and is now set to expire July 1, 2026.

Over the past few years, a number of important steps have occurred as policymakers have sought to better understand their options to address potential conversions:

- In 2023, the legislature directed the Minnesota Department of Health (MDH) to explore nonprofit HMO conversions; seek public input about the topic; and identify regulatory options for both review and approval of an HMO converting from a nonprofit to a for-profit company and ongoing regulation of for-profit HMOs. The legislature requested both preliminary and final reports on these issues.

- In its preliminary report, issued in February 2024, MDH described the current regulatory landscape for nonprofit and for-profit HMOs and the laws that were in place at that time to govern financial transactions or changes in control or governance of HMOs, as well as gaps in that regulatory structure. The preliminary report also summarized public input about what Minnesotans value and expect from entities providing their insurance coverage and their views on issues core to this study, such as opportunities for public comment on conversion proposals and what assets should be held for the public benefit. This feedback indicated strong support and greater trust of nonprofit health insurers as compared to for-profit entities. Subject matter experts also noted Minnesota's unique health care marketplace and the positive impact of having local, nonprofit health plans serving Minnesotans. Finally, the preliminary report noted components of a strong oversight structure and provided some initial considerations for the legislature to weigh as it contemplated policy changes.

- In May 2024, the legislature passed a new law that alters the regulatory landscape for HMOs in important ways and addresses most gaps noted in MDH's preliminary report. The new provisions subject HMOs to many of the same reporting requirements that already existed for Minnesota insurance companies and define nonprofit to for-profit conversions with specific guardrails and reporting requirements for conversion transactions involving nonprofit HMOs. It also provides MDH new authority to examine the cumulative impact of transactions over time.

- This final report describes the new law and explains how Minnesota's new law compares with approaches taken by a select set of other states. MDH learned that Minnesota's newly established approach is similar in many respects to those of other states, owing to the wide adoption of model laws nationwide. This knowledge about other state approaches – in combination with the legislature's significant actions during

the 2024 session – is resulting in a limited set of recommendations for ways in which Minnesota's policies should change.

Recommendations in this report (described in further detail beginning on page 18):

- Technical changes that will help with implementing the new law;
- Strengthening opportunities for the public to be informed about proposed large-scale transactions and offer input on them;
- Beginning to compare performance across Minnesota's for-profit and nonprofit HMOs to determine whether meaningful state-level variation in performance exists that may prompt additional legislative or regulatory action; and
- Taking an updated look at Minnesota's insurance premium taxation and Medicaid surcharge structure across the state's for-profit and nonprofit HMOs to assess whether the current tax structure supports the legislature's intended policy goals.

Introduction

In 2023, the Minnesota Legislature extended the moratorium on Health Maintenance Organizations (HMOs) converting from nonprofit to for-profit companies until June 30, 2026. As part of the extension, the legislature directed the Minnesota Department of Health (MDH) to identify regulatory options for review and approval of these conversions, public input, protection and monitoring of public benefit assets and monitoring of for-profit health maintenance organizations, including potential changes to statutes. This report is the second of two reports requested by the legislature about these issues.

In its preliminary report, MDH provided an overview of HMOs and HMO regulation, types of transactions that would fall under the statutory definition of 'conversion,' previous conversions and general oversight principles for conversions in other states, and the results of stakeholder and public input on HMOs and HMO conversions. It also described a number of gaps in oversight of financial transactions involving Minnesota HMOs. In 2024, the legislature created a new law extending new authorities to MDH and thereby closed most of these gaps. The new law also defines important new concepts, such as "conversion transaction" and "public benefit assets."

This report explains how and to what extent the legislature's actions in the 2024 session address considerations raised in the preliminary report and how Minnesota's new law compares with the approaches taken by other states. It also suggests some areas where policy makers might consider augmenting Minnesota law and/or issues to monitor. Finally, the report examines other topics the legislature requested MDH to address in the study, including how for-profit HMOs should be regulated and options for stewardship of public benefit assets. (See Appendix A for a summary of issues raised by the legislature and MDH's responses.)

To complete this report, MDH worked with national subject-matter experts on health insurance regulation and HMO conversion, conducted key informant interviews with a number of states, reviewed statutory language, and consulted the Minnesota Departments of Commerce and Revenue and the Minnesota Attorney General's Office. We chose a diverse set of states to research, including California, Colorado, Louisiana, New Mexico, North Carolina, Ohio, New York, and Virginia. MDH explored the following types of issues with these states: experience with nonprofit conversions; origin of current state statutes; transparency requirements; preservation of public benefit assets; and relationships between state agencies. Findings from these state interviews are noted throughout this report based on relevance to the topic. The report concludes with recommendations the legislature may wish to consider related to technical changes; enhanced opportunity for transparency; comparing performance across for-profit and nonprofit HMOs; and consideration of the state's insurance premium tax and Medicaid surcharge structure.

An Overview of Minnesota's New Law

The preliminary report, published in February 2024, described Minnesota's regulatory structure and authorities related to HMOs and financial transactions as well as gaps in those authorities. Since that time, the legislature passed Laws of Minnesota 2024, chapter 127, article 57, sections 16 and 47 through 53. Those provisions make significant changes to the regulatory landscape for HMO regulation in Minnesota and significantly reduce the gaps identified in the previous report. The new legislation addresses general regulatory authority for the Department of Health in its oversight of both for-profit and nonprofit HMOs, defines key concepts such as

"conversion transactions," and specifically establishes guardrails and requirements for conversion transactions involving nonprofit HMOs. Taken together, these new authorities give the State significantly more ability to assess transactions, including conversion transactions, and intervene if necessary.

General Transaction Oversight in Minnesota

The preliminary report highlighted a number of gaps in Minnesota's oversight of HMOs. In particular, there were instances in which there was no requirement for an HMO to notify any state agency about significant transactions, or if there was such a requirement, very little authority for MDH, the state agency that regulates HMOs, to review or apply regulatory requirements. These gaps existed for HMOs where they did not exist for insurance companies because Minnesota had implemented the National Association of Insurance Commissioners (NAIC) model Insurance Holding Company System Regulatory Act only for insurance companies, but not for HMOs. Model laws are important because they set a reliable baseline standard across states. Most states have similar regulatory authorities in place based on NAIC model laws.

Since the preliminary report was published, the legislature enacted Minnesota Statutes, section 62D.221, which requires HMOs to comply with the same reporting requirements as insurers for financial transactions and transactions involving changes in control and gives MDH authority to intervene to prevent certain transactions. The changes apply to both nonprofit and for-profit HMOs doing business in Minnesota. The new provisions require notification ahead of larger transactions including mergers, acquisitions, changes of control, and significant contractual agreements within holding company structures, including transactions involving moving assets out of state. Depending on the transaction and the entities involved, differing notice requirements and factors for agency review apply. In short, the new provisions address most gaps identified in the preliminary report.

In adopting the model law, the legislature made provisions related to transactions applicable to HMOs; however, it did not apply the entire Insurance Holding Company System Regulatory Act to HMOs. While the legislature has added authority necessary for MDH to review transactions directly related to conversion of nonprofit HMO assets to for-profit status, MDH's authority would be more complete if the entire act applied to HMOs.

Oversight of Conversion Transactions

When the moratorium on conversions is lifted on July 1, 2026, the new Minnesota Statutes, sections 145D.30-145D.37 provide specific authorities related to review of proposed conversion transactions. The new provisions will provide a process for nonprofit HMOs and nonprofit health service plan corporations to "convert" some or all of their business to for-profit status through a financial transaction with a for-profit entity while maintaining the value of the assets for their originally intended nonprofit purpose, as long as statutory requirements are met. As noted in the preliminary report, in Minnesota, a true "conversion" from a nonprofit organization to a for-profit entity where the organization maintains its identity is not permitted. A conversion does include, however, a broad range of actions which an organization may take to effectively transfer all or substantially all assets or control of the organization to a for-profit organization.

Under the new statutory definition, a nonprofit health coverage entity (an HMO or a nonprofit health service plan corporation operating under Minnesota Statutes, chapter 62C) engages in a "conversion transaction" if all

or substantially all of its assets are transferred to a company that is for-profit through one of the following actions:

- A merger, consolidation, conversion or asset transfer.
- Multiple asset transfers over a five-year period that in the aggregate reach the "all or substantially all" threshold.
- Adding or substituting directors or officers that result in a transfer of control, responsibility, or governance.

Prior to completing a conversion transaction, the parties must notify the attorney general and the relevant commissioner (MDH for HMOs, Department of Commerce for nonprofit health service plan corporations) 60 days in advance of the planned transaction. The attorney general has broad discretion to investigate transactions of nonprofits in Minnesota. That office has authority to bring court action if a nonprofit violates laws concerning nonprofits and, in particular, charitable assets. However, prior to the 2024 legislative changes, there was a risk that the office could have been limited in its exercise of that power because of gaps in notifications. The new notification requirement closes that gap by providing specific requirements, including complete information on assets, liabilities, transaction expenses, terms of the transaction, the individuals and entities involved, and valuation of public benefit assets. (See Appendix B for the complete list of information to be included in a notice.) The 60-day notice period serves to give the attorney general time to investigate and act prior to any transaction which the office believes may be contrary to statutory requirements.

Importantly, the new conversion law also specifies that a transaction is in violation if it is contrary to the public interest. The public interest framework allows the attorney general to consider factors that are not strictly financial in nature; for example, whether a transaction would result in increased health care costs for patients and whether the transaction would adversely impact provider cost trends and containment of total health care spending. MDH is required to share information with the attorney general, upon request, related to broader market trends, impacts on prices and outcomes, public health and population health considerations, and health care access, for the attorney general to use when evaluating whether a conversion transaction is contrary to public interest. These factors are not exclusive; the attorney general may still act on the basis of any other authority elsewhere in law. In addition, new authority to seek civil penalties, including from officers, directors, and executives is provided along with a legal standard which allows for the lack of notice to be sufficient grounds to enjoin or unwind a transaction.

Dual Agency Roles in Conversions

The new law creates two parallel paths for review of conversion transactions. HMOs and nonprofit health service plan corporations must submit to review by both the Attorney General's Office, and the relevant commissioner. While the relevant commissioner must be notified at the same time as the attorney general under Minnesota Statutes, section 145D.32, MDH and Commerce will review the transactions based on their general authorities under Minnesota Statutes, chapters 60A, 62A, 60D, and 62D.

Taken together, these new provisions assure that MDH and the attorney general's office will have sightlines on larger nonprofit HMO transactions and MDH will additionally receive notice of a wide variety of smaller transactions involving an amount or percentage of assets that does not rise to the "all or substantially all" level of conversion transactions. In addition, MDH may use information submitted to conduct analyses of the aggregate impact of transactions within complex holding company systems on access to, or the cost of, health

care services, health care market consolidation, and health care quality. MDH must also issue periodic public reports on the number and types of conversion transactions subject to Minnesota Statutes, sections 145D.30 to 145D.35 and on the aggregate impact of conversion transactions on health care costs, quality, and competition in Minnesota. Reports and analysis by MDH will help the legislature, commissioners, and the Attorney General's Office assess future conversion transactions and provide greater transparency around these issues.

There is opportunity for improvement to statute to facilitate coordination between the Departments of Health and Commerce on regulatory activities and to provide clarity on the agencies' ability to share data with each other and the attorney general. Minnesota Statutes, section 60D.22, addresses the classification of data on financial transactions and how these data may be used by the commissioner of Commerce, but does not currently explicitly apply to HMOs or the MDH. Though the provisions in 60D.22 likely apply to many of the new required disclosures in Minnesota Statutes, section 62D.221, in the absence of explicit authority, the statute could be clearer about authority to share certain information across state agencies. This not only muddies the waters about what information may be shared with the attorney general's office, but may restrict state agencies from sharing relevant information with each other, which could impair the ability of MDH to analyze aggregate trends in transactions as directed by statute, and impede both agencies' understanding of the impact of transactions across large, complex corporate structures. Applying the complete Holding Company System Regulatory Act explicitly to HMOs under MDH's authority, including 60D.22, would provide clarity for this sharing. To enhance the flow of data of information between MDH and the attorney general's office, a more robust statute authorizing additional disclosure to the attorney general may be preferred.

Comparing Minnesota's New Law with Conversion Approaches in Other States

In the preliminary report, MDH described a core set of components that the legislature should consider in the design of a robust and comprehensive oversight process for conversion transactions, including pre-notice requirements, clear regulatory authority to review and intervene, mechanisms for public input and transparency, and clarity as to how to value and preserve public assets. But there is more than one path to development of such a system; in general, each state has their own approach and statutory framework, based on their own experiences, political dynamics, and insurance markets.

While many states rely on the NAIC model laws to regulate insurance in general, regulations specific to conversion transactions are less common and vary across states. In order to understand how other states approach conversion regulation and how Minnesota's new law compares to those approaches, MDH conducted interviews with regulators in eight states (Colorado, New Mexico, Louisiana, Ohio, New York, North Carolina, California, and Virginia) to discuss how conversion transaction laws have been or could be implemented in those states. We learned that Minnesota's new law is comparable in many respects to other states' approaches. Based on this research, this report highlights only a few areas in which legislators may wish to consider augmenting the law they passed in the 2024 session.

This section of the report summarizes core components of conversion transaction regulation and explains how Minnesota's law compares to those of other states. It also summarizes some of MDH's most significant observations from this research.

- **States have different authorities and processes for handling conversions of nonprofit HMOs and insurers to for-profit status.** Though some states have a "conversion statute," the development and scope of that statute was often influenced by the specific context of its passage, and by proposed or completed transactions in the state. Some of the statutes are so specific to the historical events that they are no longer meaningful for future conversions (for example, many statutes were drafted specifically to address a conversion of their Blue Cross entity and would not apply to other transactions moving forward). Thus, even states with conversion statutes would usually rely on their general laws for nonprofit organizations and standard regulatory authorities for insurance entities (often including the model laws) to oversee conversion transactions.
- **In general, states attempt to capture any transaction in which the assets or operations of a nonprofit health care entity become for-profit.** This is generally approached broadly and, as in Minnesota's new statute, includes language to capture sales, mergers, transfers, leases, and a variety of other types of transactions. Specific exclusions from the process are also common. The most common exclusion is transactions which occur in the normal course of business (e.g. service agreements), which already receive scrutiny above a certain threshold under regular transaction reviews.
- **States typically take one of two approaches in setting thresholds for which transactions are considered conversions and those thresholds vary widely.** Typically, states use either a subjective standard or establish a specific percentage of assets for their conversion definition. Minnesota's new law establishes a subjective threshold for transactions involving "all or substantially all" assets. This standard matches the threshold that already exists for certain nonprofit reporting.[1] A number of states also use a subjective standard, including California, Delaware, and New York.[2] Alternatively, some states set a percentage threshold, above which the transaction is subject to the conversion transaction review process. States that have set a threshold in this way have chosen percentages of total assets or control between 10 and 50 percent.
- **A required notice to authorities is a key element of all conversion statutes, which is critical to provide regulators an opportunity to examine the proposed transaction.** The notice may be required to the attorney general or a regulatory agency or both. Most, but not all, include a timeline which begins to run when a determination is made that the entity providing required information has filed a complete notification. Minnesota Statutes, section 145D.32 requires a waiting period of 60 days following notice to the attorney general and commissioner of the intended transaction. If the regulator fails to act to approve, disapprove, or request more information before the timeline lapses, the parties may proceed with their transaction.

  Timelines in other states range from 30 days to 180 days, often with an opportunity for the regulator to extend the timelines. Many statutes include a provision that starts the clock only when the regulator informs the parties that the notice or application is complete (as opposed to when an initial notice is received). Minnesota's statute does not clearly indicate whether the 60-day waiting period begins when the notice is first submitted or when the notice is determined to be complete. The legislature could consider clarifying this in statute.

[1] Minnesota Statutes, section 317A.811

[2] California refers to "a substantial amount of…assets," (1399.71) Delaware includes a "material amount of the assets," New York uses "all or a material portion of the assets."

Appropriate timelines will allow regulators time to thoroughly vet the transaction, including hearings and a public comment period when appropriate. At the same time, for some transactions, time is of the essence. This may be true if financial solvency of the converting organization is at issue, or if the for-profit party's strategic reasons for engaging in the transaction could be imperiled by delay. Because of the wide variety of situations that may arise, some flexibility is necessary to either more quickly allow a transaction that is both in the public interest and addresses a solvency concern to move forward or slow a proposed transaction down to allow a more comprehensive examination if necessary. Minnesota's new law provides such flexibility by allowing the attorney general to waive all or part of the waiting period or, alternatively, to extend the waiting period for an additional 60 days. In addition, the new statute allows the attorney general to "stop the clock" while a request from the attorney general for additional information is outstanding.

- **Transparency is an essential element in successful conversions.** The amount and type of data that can be made available to the public is a controversial issue with health care entities who assert the importance of keeping information private to protect their business. Transparency can also have a negative impact on valuation as every disclosure can impact stock prices of a publicly traded company. On the other hand, greater transparency has benefits beyond allowing the public to be informed about and potentially provide input on a transaction. Companies who know that they must provide information publicly are incentivized to build a case for how the public will benefit from the transaction from the beginning, including engaging interested stakeholders early in the process and proposing a reasonable valuation. This is likely to result in a conversion transaction that is more beneficial to the public and enrollees; it is also likely to lead to a smoother review process as the regulated entity is more likely to be well prepared to engage with regulators and address any concerns that may arise.

  Most states with conversion statutes explicitly make information provided in the initial notice or application public record. Minnesota's new conversion statute does the opposite and explicitly provides that the data from the conversion notification is confidential or nonpublic and thus will not be available to the public. Based on learnings from other states, the legislature might consider amending current statute to provide for public notice that a transaction is proposed, but does not reveal sensitive information or interfere with the attorney general's law enforcement objectives.

- **Most states with conversion statutes require a public hearing or forum as part of the conversion transaction review process.** Responsibility for hosting the hearing generally falls to the attorney general, the regulatory agency, or the parties themselves. Additional requirements may also exist for publishing notice to the public about the transaction. Statutes often provide for specific timelines and publishing requirements for the hearing and may be supplemented with additional opportunities for comment in writing. In Minnesota, the new statutes allow for the attorney general or the commissioner to hold a public listening session or forum, or to solicit public feedback, but it is not a requirement. This is also a policy the legislature could consider amending to ensure Minnesotans have the opportunity to provide public input on a conversion transaction through a public hearing and a written public comment process facilitated by the appropriate regulator (MDH or Commerce).

- **Factors for approving transactions are consistent across states.** Across states, attorneys general typically assess nonprofit issues and examine potential violations of antitrust laws in their review of transactions, while agencies focus on factors related to financial solvency, market competition, and impact to enrollees and the broader public. These reviews may overlap (for example, many attorneys general would also look at factors related to monopolies and the agency would concurrently look at this issue) but each independently

reviews their factors. Minnesota's conversion law focuses primarily on the attorney general's role and allows the attorney general to look broadly at the public interest in addition to their oversight of nonprofit requirements and antitrust issues.

MDH would look to the new regulatory provisions of Minnesota Statutes, section 62D.221 for its criteria. These criteria will differ based on the specifics of the transaction and are not limited to transactions involving a nonprofit. These factors are related to the market and may look to reasonableness, monopoly, and the potential impact on health care providers, health care costs, and the public. This bifurcated process of review between the attorney general and the regulating agency is the most common structure across states, regardless of whether there is a specific conversion statute in place.

- **Protection of nonprofit assets.** While some of the earliest conversions in other states involved private interests taking control of nonprofit assets, regulatory authorities across states now recognize the importance of safeguarding nonprofit assets for their original purpose. States with conversion statutes are most explicit in establishing that the complete value of a nonprofit HMO or insurer must be preserved, but other states also succeed in this goal either by adhering to common law principles or robust enforcement of model regulatory law in the absence of strong nonprofit law. Minnesota's conversion statute, which adheres to long held principles of charitable trust, is in line with practices across states. Issues related to preserving these assets are discussed in detail below.

Preserving Public Benefit Assets

Conversion transactions involving nonprofits must include provisions to assure that nonprofit assets are not diverted from their original purpose. This involves three related components: 1) determining which portion of the nonprofit assets are public benefit assets, 2) establishing the value of those assets, and 3) deciding appropriate uses of the assets. The process for addressing these components differs by state.

Establishing How Much to Set Aside for Public Benefit

In general, all nonprofit health coverage entity assets are bound by the purposes recorded in the incorporating documents of the organization holding them, the general nonprofit laws of the state, and any state and federal tax law applicable to their particular nonprofit status. Therefore, when a nonprofit health coverage entity seeks to transfer its assets, control, or operations to a for-profit organization, the generally applicable rules of nonprofits require the value of those assets be preserved for their original nonprofit purpose.

The new Minnesota Statutes, section 145D.30 establishes a definition of "public benefit assets" which must be preserved in order for the transaction to move forward. "Public benefit assets" means the entirety of a nonprofit health coverage entity's assets, whether tangible or intangible, including but not limited to its goodwill and anticipated future revenue. Nonprofit assets must continue to be used consistent with their original purpose. The new process requires the nonprofit health coverage entity to include a plan in the initial notification, including an independent third-party valuation. Establishing that the full value of a nonprofit is subject to preservation is consistent with practice across the states with whom MDH conducted key informant interviews.

Minnesota's statute does not address whether the assets may be transferred proportionally in the event a conversion transaction involves less than all of a nonprofit organization's assets. The statute requires that the "nonprofit health coverage entity shall receive full and fair value for its public benefit assets." One reading of this provision is that if a nonprofit health coverage entity seeks to transfer only 60% of its business, it must receive 100% of the value of the entity. The legislature may want to provide additional clarity to allow that only the public benefit assets which are actually being transferred must be set aside and continue to be used for the original nonprofit purpose. California has one example of this language in its statute which requires the "fair value of the portion of the nonprofit health care service plan involved in the restructuring is set aside." [3]

Valuation of Assets

Minnesota's new valuation standard includes the value of both tangible and intangible assets. The definition acknowledges that the value of an organization is not merely the sum of its tangible assets, but rather a market-based assessment. The nonprofit must receive the "full and fair value" of its assets. The full and fair value is what the public benefit assets "would be worth if the assets were equal to stock in the nonprofit health coverage entity, if the nonprofit health coverage entity was a for-profit corporation and if the nonprofit health coverage entity had 100 percent of its stock authorized by the corporation and available for purchase without restrictions. The valuation must consider market value, investment or earning value, net asset value, goodwill, amount of donations received, and control premium."

Minnesota's standard differs in language, but not significantly in meaning, from the standard in other states. "Full market value" is the prevailing standard for valuation of assets in other states' conversion statutes. A reference to 100% of the stock value if the entity were a for-profit corporation with all stock available for purchase is also consistent with several states. Some states authorize the stock in the new/merged corporation itself as a presumptively appropriate price.

In reviewing a plan and establishing a valuation, many states with conversion statutes recognize the complexity of valuing nonprofit entities and allow the regulatory agency or attorney general's office to bill costs associated with reviewing the plan and valuation to the parties of the transaction. This provision allows these states to seek expert advice outside the agency related to valuation. Minnesota's law does not provide for passing on these costs to parties, which can be significant, or explicitly provide resources to the Attorney General's Office to seek outside expertise related to valuation. Allowing review costs to be billed addresses the variability of these costs, which would be difficult to include in an agency budget in an ongoing appropriation. MDH recommends the legislature consider ensuring the Attorney General's Office has the necessary resources to engage external experts as needed to review valuations.

Importantly, regulation under the new Minnesota Statutes, section 62D.221 will also protect the value of public benefit assets in situations that do not rise to the level of conversion transactions, especially as to the movement of smaller amounts of assets or shifting control or governance within a holding company. In those instances, the regulatory agency will assure that any transactions are "fair and reasonable". Therefore, in its role

[3] Knox-Keen Act, California Code, Health and Safety Code, section 1399.71

as regulator, MDH will not be looking at the market value of the entity's assets, but rather the reasonableness of a transaction and how it might impact current enrollees and the overall health insurance market.

Options for Ensuring Public Benefit Assets Continue to Be Used for Nonprofit Purposes

The language directing MDH to undertake this study asked MDH to describe issues associated with transferring public benefit assets following a conversion transaction to the General Fund and to provide proposed bill language about how to accomplish this for the legislature's consideration. However, transfer of funds into the General Fund is only one mechanism that could be considered; this section will discuss a range of options for meeting the goal of maintaining public benefit assets for their intended nonprofit purpose as required by law.

When MDH was tasked with this study, there was no specific statutory framework related to HMO conversion transactions and no definition of public benefit assets or what proportion of them needed to be stewarded for the public good. As a result of the 2024 session and as described earlier in this report, there have been considerable changes on these topics, including defining both a conversion transaction and public benefit assets and, further, specifying that the full and fair value of assets must be maintained for their original nonprofit purpose. The concern that significant public benefit assets might be shifted to a for-profit entity in the wake of a conversion transaction or the sale of a nonprofit health system to a for-profit or out of state entity has already been mitigated to a considerable extent. These protections of public benefit assets may already satisfy the legislature's goals.

This section of the report, therefore, begins with a description of how public benefit assets would be stewarded under the now current law. It then identifies and compares three additional alternatives for other forms of stewardship, including specifying what types of entities may be selected to steward public benefit assets when conversion transactions occur; creating a dedicated trust fund for legislators to determine their use or creating guidelines or criteria; or facilitating a transfer to the general fund. MDH does not recommend a general fund transfer for reasons described below.

Current Law

Under current law, the attorney general has broad authority to protect full and fair value of charitable and nonprofit assets for their original purpose. This ensures nonprofit assets will not be diverted to a for-profit entity in the wake a conversion transaction. There is no statute that outlines a specific process for monitoring public benefit assets after a conversion transaction. However, the attorney general would rely on its existing authorities and processes for oversight of these nonprofit assets.

While current law clearly gives the Attorney General's Office authority to ensure nonprofit assets are used for their original purpose, the law does not allow the attorney general to provide specific direction over the governance or use of those assets or to direct use of the funds for a more narrowly defined purpose than the original intended use. Rather, the Attorney General's Office has authority to seek legal remedies to stop the proposed plan presented by the converting entity where concerns arise. This means the converting nonprofit health coverage entity could, for example, have the value of its public benefit assets transferred to a foundation over which it has control or that exists within its corporate structure.

If policymakers prefer the assets be transferred to an organization with a specific governance structure, such as an independent existing or new foundation, or prohibit transfer of funds to any entity with which the converting organization has an affiliation, these policy choices would require a change in law. Given the scope of nonprofit assets likely to be involved in a conversion transaction, it is also possible that the legislature would want to specify a more proactive, sustained type of monitoring of the use of these assets over time.

If the legislature would like to revisit one or more aspects of how nonprofit assets would be treated under current law, policymakers could consider one of the following options.

1. Create Additional Criteria for Selecting an Entity to Steward the Public Benefit Assets

As noted above, under current law, an entity that is converting could meet the requirements of the law by placing public benefit assets into an existing or new foundation or directing them in some other way to an organization that will use them for their original nonprofit purpose. The Attorney General's Office would review the proposed transaction to determine if it meets the criteria, but neither they nor the regulating state agency have the authority to dictate where the assets should go. The legislature could choose to put additional guardrails around what is allowable in this situation.

Some states with conversion statutes lean on regulation from the Internal Revenue Service and include a provision that the receiving organization must be a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code (or a 501(c)(4) organization following the rules required of 501(c)(3) organizations). States with this requirement assume that these tax provisions are robust enough to assure continued public benefit of the funds.

However, the legislature could choose to make more specific requirements. For example, the legislature could specify that the entity selected to steward the public benefit assets be independent of the converting nonprofit health coverage entity through a separate governance structure that is unaffiliated with either of the organizations involved in the conversion transaction. The organization could be an existing organization, or the creation of a new organization could be required. Depending on the value of public benefit assets being transferred, it might be more efficient to transfer the value of public benefit assets to an existing organization if fewer dollars are involved, whereas it may make sense to establish a wholly new foundation for more consequential amounts of public benefit assets.

Considerations for the creation of a new entity to receive funds could include:

- How and by whom a new entity would be established.
- Where and by whom the assets would be held until the new entity is able to accept them.
- The role of the legislature, the public, or enrollees of the nonprofit coverage entity in helping guide the establishment of this new entity.
- Establishing monitoring or oversight requirements for the entities receiving the value of the public benefit assets, for some period of time.

During the 2024 legislative session, there was considerable discussion related to "conversion benefit entities" or CBEs and how they would be governed and monitored. CBEs are essentially public foundations and they have been created in other states as a vehicle for stewarding public benefit assets in the wake of large-scale

conversion transactions. Language proposed in the 2024 session envisioned that CBEs would be established as part of a conversion transaction, with a community-based governing board selected by a public agency and overseen by that agency for an indeterminate time.

2. Transfer of Public Benefit Assets to the General Fund or a Public Trust Fund

In directing MDH to conduct this study, the legislature asked MDH to describe issues associated with transferring public benefit assets following a conversion transaction of either a nonprofit HMO or nonprofit health system to the General Fund. If the legislature changed current law related to conversion transactions to direct a transfer of public benefit assets to the general fund, a substantial one-time transfer would occur. The primary consideration with this approach is that the transfer of significant assets would create opportunities for the legislature to spend those resources for broader purposes, many of which might be outside the original nonprofit purpose for which they were intended and therefore contrary to current law related to nonprofit assets. This approach also seems highly likely to invite litigation, which would add time, cost, and uncertainty to how public benefit assets would be stewarded.

If the legislature would like authority to directly determine use of public benefit assets in the wake of a conversion transaction while also ensuring alignment with the original nonprofit purpose for which the funds were intended, another option may be to put them in a trust fund to be used for limited purposes consistent with their original purpose rather than placing them in the General Fund. An example of this would be the Environment and Natural Resources Trust fund (ENRT), which is described in Minnesota Statutes, section 116P.04. The authorizing legislation for the ENRT created a separate account in the State treasury. All money earned by the trust fund must be credited to the trust fund. The State Investment Board manages the investment of the funds. The legislative auditor is required to conduct audits of the funds to ensure they are used for the purposes for which they were intended.

As compared to the potential option of transferring the value of public benefit assets to the General Fund, this option is significantly more likely to result in the use of funds for the original purpose for which they were intended. This is not, however, an approach to protecting public benefit assets that most other states have taken and it likely entails substantially more complexity and risk than other alternatives to ensure public benefit assets are used for their original purpose.

Ongoing Regulation of For-Profit and Nonprofit HMOs

Minnesota's original laws allowing HMOs to operate in the state were created on the assumption that all HMOs in the state would be nonprofit. When Minnesota policymakers decided to allow for-profit HMOs to operate in the state, no changes were made to the regulatory or taxation structure for HMOs. In 2023, the legislature requested MDH consider whether the state should modify any laws related to nonprofit or for-profit HMOs in this study. Subsequently, in 2024, the legislature chose to differentiate between for-profit and nonprofit HMOs by limiting participation in Medicaid and the state employee insurance program to nonprofit HMOs, while leaving the overall regulatory structure for the two types of HMOs intact.

MDH explored this issue as part of its key informant interview process, with other states, and closely related research on NAIC model laws. MDH has not learned of any other state with markedly distinct regulations for nonprofit and for-profit HMOs outside of the general state and federal nonprofit regulations and conversion transactions. However, MDH also received consistent stakeholder input that many Minnesotans feel strongly

about health care coverage entities being nonprofits. Although stakeholders were sometimes skeptical of the degree to which Minnesota's nonprofit HMOs act in ways they believe nonprofit organizations should, they also expressed greater trust in entities that are not structured to make profits for shareholders. As noted in the preliminary report, due to the recent entry of for-profit HMOs in Minnesota, there is not published evidence showing differences between for-profit and nonprofit HMOs in Minnesota. At the national level, some research comparing nonprofit and for-profit insurers explored insurer behavior before and after a conversion. This work indicates that there were decreases in Medicaid enrollment and some premium increases in group markets; however, these differences were also dependent on market factors, such as how concentrated the insurance market is, that also impact these decisions.[4] Most national research comparing nonprofit and for-profit health care entities is focused on hospitals and provider systems, rather than insurers. As part of the recommendations below, MDH suggests an ongoing monitoring process to assess the extent to which performance of nonprofit and for-profit HMOs differs on available metrics, as well as consideration of Minnesota's insurance premium tax structure for HMOs and insurers.

Considerations and Recommendations

The changes to HMO regulation and conversion transaction transparency and oversight enacted by the 2024 Minnesota Legislature went a long way towards addressing regulatory gaps identified in the preliminary report. However, opportunities remain to strengthen the regulatory environment. This section of the report offers some considerations for additional areas of action.

[4] See Dafny, L and Ramanarayanan, S 2012. "Does it Does it Matter if Your Health Insurer is For-Profit? Effects of Ownership on Premiums, Insurance Coverage, and Medical Spending" NBER working paper 18286, https://www.nber.org/papers/w18286 and Dafny, L, 2019. "Does It Matter if Your Health Insurer Is For Profit? Effects of Ownership on Premiums, Insurance Coverage, and Medical Spending," American Economic Journal: Economic Policy, vol 11(1), pages 222-265.

Recommendation #1: Address Technical Fixes Helpful to Implementing the New Law

Clarify Data Sharing

With the changes enacted in 2024, MDH has new regulatory authorities over transactions based on the model laws. However, there is not clear classification of these data. Model law currently codified under Minnesota Statutes, section 60D.22 is the data classification authority for similar data received by the Department of Commerce. These data classification provisions should be more explicitly extended to apply to data received by MDH from HMOs about their transactions. This change will provide clearer authority for sharing of relevant information with the Attorney General and between MDH and the Department of Commerce and allow the department some discretion to share information more broadly if it determines that publication is in the interest of policyholders, shareholders, or the public. The legislature should also consider further extending the department's authority to share with the attorney general beyond the provisions of Minnesota Statutes, section 60D.22.

Allow Preservation of a Proportionate Share of Assets in Partial Conversion

The law requires that the health care entity "receive full and fair value for its public benefit assets" which can be interpreted to mean 100% of the value, even if less than 100% of the assets of the nonprofit health coverage entity is involved in the conversion. The legislature should consider specifying a proportionate amount of the full and fair value of the public benefit assets may be received when less than 100% of the nonprofit health coverage entity will be involved in the transaction.

Clarify Waiting Period for Conversion

Minnesota's new conversion statute provides for a 60-day waiting period after notice to the attorney general and the commissioner before a conversion can move forward. However, the experiences of other states suggest the information submitted in the initial notice may not always be complete. To ensure consistency in interpretation of timelines and to ensure submitters understand that only complete submissions allow the clock to move forward, language in Minnesota Statutes, section 145D.32, subd. 4 could be clarified to assure that the time begins when the Attorney General's Office confirms the parties have submitted all required information and therefore have provided a complete notice, rather than when the notice is first received. This clarity is especially important where solvency may be an issue.

Ensure Ability to Adequately Assess Valuation of Public Benefit Assets

Other states' conversion laws explicitly allow for regulators to bill the parties proposing the transaction for expenses incurred in the review of the proposed transaction. Among other costs, states provide for costs associated with retaining experts to assist with evaluation of information provided by parties to a transaction. Minnesota's new conversion law requires submission of an independent third-party valuation of the nonprofit HMO's assets. Given the complexity of these valuations, the legislature should consider either providing funding to the Attorney General's Office to allow for the procurement of any necessary outside expertise to review the

valuation or explicitly allowing the Attorney General's Office to bill the for-profit entity involved in the transaction for these costs.

Recommendation #2: Enhance Public Transparency

The legislature specifically requested that MDH provide recommendations related to a process by which the public can be notified and provide input related to a conversion transaction, given the high value that Minnesotans generally place on transparency into changes in the health care marketplace. MDH has identified two recommendations that the Legislature should consider:

1) **Requiring public notice of the proposed conversion transaction.** Minnesota's new law requires the parties to a conversion transaction to provide notice to the attorney general and regulating commissioner. However, there is no provision for a notice to the public. Among states that MDH interviewed for this report, the majority of their conversion statutes provide for public notice of these transactions. The legislature should consider providing for clear public notice requirements that a conversion transaction is being proposed. This could be an entirely different document than the more detailed notice to the attorney general and regulating commissioner and thereby avoid disclosure of trade secret or sensitive information to the public. In determining what information should be included in this public notice, the legislature should weigh the public interest in the transaction against the parties' interest in keeping some of the details private. This public notice should be made available shortly after the parties provide notice to the attorney general to provide maximum transparency.
2) **Ensuring opportunity for public comment.** Minnesota's conversion statute allows for public listening sessions and the solicitation of public comment but does not require it. Some other states require public hearings prior to a conversion. Given Minnesotans' long-held value for transparency, it may be advisable to require an opportunity for the public to learn firsthand about conversion transactions, while also offering the organizations proposing the conversion an opportunity to explain to the public and their enrollees why the transaction is in their interest. MDH recommends the applicable insurance regulator (either MDH or Commerce) be either strongly encouraged or required to hold a public hearing as part of its process to evaluate a proposed conversion transaction and to solicit written public comment.

MDH currently conducts two types of public hearings related to hospitals that could be considered as potential models for HMO conversion transaction public meetings:

- The first, under Minnesota Statutes, section 144.552, is related to the requirement for MDH to consider if a proposal to build a new hospital or add additional beds to an existing hospital is in the public interest. The public hearing is part of the requirement for MDH to consider the "views of affected parties" as it considers if a new hospital or additional beds are in the public interest. The hearing is focused on taking testimony from interested persons; therefore, while representatives from the hospital may attend the hearing and provide a brief overview of the project, hospitals do not respond directly to questions at the hearing.
- The second, under Minnesota Statutes, section 144.555, is related to a hospital closing or curtailing certain services. The hearing is organized and hosted by MDH, but the hospital that is closing or curtailing certain services is responsible for presenting their plan, including how access to the services being ended will be continued. At the hearing, the public may provide comments or ask questions to the hospital, and the hospital has an opportunity to respond directly to the questions from the public.

Recommendation #3: Compare Performance Across For-Profit and Nonprofit HMOs

MDH observed in the preliminary report that, while there is some data at the national level, there is a lack of data substantiating differences in performance between nonprofit and for-profit HMOs in Minnesota given their recent entry to the state. However, MDH remains acutely aware of stakeholders' preference for nonprofit health care and skepticism that for-profit insurers are working with Minnesotans' interests in mind. To the extent resources are available, MDH recommends the agency begin to gather, analyze, and compare aggregate data across nonprofit and for-profit HMOs. Such analysis may show whether there are quantifiable differences in performance across these types of entities that merit additional or new regulation. Possible areas to monitor include accumulation of reserves, use of prior authorization or other utilization management strategies, accessibility and communication with enrollees, quality of care metrics, claims denial statistics, consumer complaints, compliance and enforcement actions, and network adequacy and access issues.

Recommendation #4: Consider whether Minnesota's existing state insurance premium taxation and Medicaid surcharge structure should be updated to align nonprofit and for-profit tax policy

Minnesota's insurance premium tax structure for health plans historically favored HMOs and nonprofit health service plan corporations in an environment where they were synonymous with nonprofit status, while more traditional indemnity insurers were primarily for-profit entities. The preference for nonprofit health plans was also a strong theme in the preliminary report from MDH on this topic. One method by which a state can use its available levers to incentivize nonprofit status, if that continues to be a legislative goal, is through state insurance premium tax and surcharge policy.

As noted in the preliminary report and highlighted in the table in Appendix C, the current insurance premium tax structure in Minnesota differentiates between HMOs (previously only allowed to be nonprofit and local), nonprofit health service plan corporations, and other health insurers. HMOs and nonprofit health service plan corporations are subject to a one percent premium tax regardless of their profit status while insurers are subject to a two percent premium tax. Under the current structure, HMOs – as the only entities allowed to participate in the Medicaid program – are also subject to a state-imposed Medicaid surcharge. While the overall insurance landscape has changed with the entrance of HMOs that are either for-profit or domiciled outside of Minnesota, the state insurance premium tax and Medicaid surcharge tax structure for these entities has not changed. Similarly, the 2024 law change to exclude for-profit HMOs from participation in the Medicaid program or the State Employee Group Insurance Program did not include any modifications to this current tax and surcharge structure. If encouraging HMOs to be or remain nonprofit or locally domiciled is a legislative goal, the legislature may want to consider aligning tax policy with those goals.

Conclusion

The Minnesota Legislature's direction to MDH to study the issue of HMO conversions came at a time when issues related to the nonprofit and for-profit status of health care organizations and concerns about health care consolidation and changes in ownership were dominating many public discussions due to a proposed high-profile merger of two health systems. These are important issues for all Minnesotans. Access to affordable, comprehensive health care and health insurance coverage is an important factor that contributes to an individual's overall health, and one that has clear financial implications for individuals, families, and employers. Having a robust, transparent regulatory structure for entities that provide this coverage is necessary for accountability in meeting all state and federal requirements, including those related to entities' financial health and ability to meet their financial obligations to enrollees and providers.

The work to answer the legislature's questions was extensive, and included key informant interviews, robust public comment and input, conversations with other states that have been involved with proposed conversion transactions, review of Minnesota's and other states' laws related to financial transactions involving HMOs, and discussions about the roles played by Minnesota's insurance regulatory agencies and Attorney General. This work has led to a much richer understanding of not only how Minnesota's regulatory environment compares to other states, but what Minnesotans think and value about the organizations that provide their health insurance coverage. That body of work has resulted in two legislative reports. The preliminary report identified significant gaps in financial regulation for HMOs, many of which were closed with legislative changes in 2024. MDH now has authority to oversee HMO transactions in much the same manner as the Department of Commerce regulates insurers' financial transactions. Additionally, the legislature established a process by which the Attorney General's Office and state insurance regulators will be able to examine proposed large-scale transactions, ensure those transactions are in the public interest and consistent with other state requirements, and protect the value of charitable assets after the transaction is complete.

This report describes the new law and suggests some targeted ways in which the new law could be strengthened. And, as this report notes, the conversation about the implications of nonprofit and for-profit ownership or governance in the health insurance sector should not end here. Minnesotans place a high value on the predominantly nonprofit nature of our health care and health insurance systems; legislators may wish to ensure the state's policies allow nonprofit HMOs the ability to grow and compete in a changing marketplace. It will be important for regulators to continue to monitor the state's evolving insurance markets and ensure Minnesota's insurance regulatory structure prioritizes both the financial health of insurers and their ability to facilitate access to affordable, high-quality care that is responsive to the needs of Minnesotans.

Appendices

Appendix A: Legislative Charge, Actions Taken, and Recommendations

Topic	Observations and Recommendations
Providing a state agency or executive branch office with authority to review and approve or disapprove a nonprofit health maintenance organization's plan to convert to a for-profit organization.	The legislature addressed this issue in the 2024 session as described in this report. MDH has no further recommendations.
Establishing a process for the public to learn about and provide input on a nonprofit health maintenance organization's proposed conversion to a for-profit organization.	MDH sees opportunity to strengthen current law by requiring a public version of a notice that a conversion transaction is proposed and either strongly encouraging or requiring the commissioners of Health or Commerce to convene a public hearing and solicit public input on conversion transactions (Recommendation #2)
Issues related to public benefit assets health by a nonprofit health maintenance organization, including identifying the portion of the organization's assets that are considered public benefit assets to be protected, establishing a fair and independent process to value the assets, and determining how public benefit assets should be stewarded for the public good.	The legislature addressed these issues in the 2024 session as described in this report. Depending on policymakers' level of interest in ensuring independent governance of public benefit assets, the legislature may wish to consider other strategies for stewardship. (See pages 16-19 for options and considerations.)
Monitoring and regulation of Minnesota-domiciled for-profit health maintenance organizations.	MDH is not recommending regulatory changes specific to for-profit HMOs at this time. MDH is recommending the following: 1. To monitor and compare performance across for-profit and nonprofit HMOs with respect to complaints, prior authorizations, quality, reserve levels, etc., and consider whether additional regulatory actions might be recommended on the basis of these comparisons. (Recommendation #3) 2. Consider how Minnesota's insurance premium tax and Medicaid surcharge structure might be modified to help level the playing field for Minnesota nonprofit HMOs (Recommendation #4)
Issues, including statutory language and regulatory implementation, related to a potential	MDH provides information about the complexities of this approach to stewarding public benefit assets and does not

Topic	Observations and Recommendations
statutory requirement that nonprofit health maintenance organizations licensed under 62D, and health systems organized as a charitable organization, upon the sale or transfer of control to an out-of-state or for-profit entity, return to the general fund an amount equal to the value of any charitable assets the health maintenance organization or health system received from the state.	recommend a transfer to the General Fund. This is discussed as part of the potential alternatives for stewardship on pages 16-19.

Appendix B: Notice Content Requirements to the Attorney General's Office

The notice must include:

1. the purpose of the notice,
2. a list of assets owned or held by the corporation for charitable purposes and a description of restricted assets and purposes for which the assets were received,
3. a description of debts, obligations, and liabilities,
4. a description of tangible assets being converted to cash and the manner in which they will be sold,
5. anticipated expenses of the transaction,
6. a list of persons to whom assets will be transferred, if known, or the name of the converted organization,
7. the purposes of the persons receiving the assets or of the converted organization,
8. the terms, conditions, or restrictions, if any, to be imposed on the transferred or converted assets,
9. an itemization and valuation of public benefit assets, and
10. any other information contained in forms provided by the Attorney General's Office.

Appendix C: Current State Insurance Premium Taxes and Treatment

Minnesota HMOs (both nonprofit and for-profit), health insurance companies, and their holding companies, are required to pay certain state taxes. These taxes are based on the premiums they collect and, in the past, represented one way policymakers differentiated between HMOs (previously only nonprofit) and health insurance companies in statute (see Table C1). These tax laws have not been changed to differentiate between nonprofit and for-profit HMOs, or to acknowledge the 2024 legislature's passage of a new statutory prohibition on for-profit HMOs participating in Minnesota public programs or the state employee insurance program.

Table C1: State Premium Taxes and Surcharges Paid by HMOs and Insurance Companies

Tax	Description	Statutory Reference	Location of Funds
1% Gross Premium Tax	Tax on gross premium revenues on HMOs, Community Integrated Service Networks (CISN) & nonprofit health service plan corporations	chapter 297I, section 297I.05, subdivision 5	Health Care Access Fund (HCAF)
2% Gross Premium Tax	Tax on gross premium revenues on domestic and foreign insurance companies	chapter 297I, section 297I.05, subdivision 1	General Fund
Medical Assistance Surcharge on HMOs and CISNs[2]	0.6% surcharge on total premium revenues of HMOs and CISNs	chapter 256, section 256.9657, subdivision 3	Medical Assistance Account

[1] As of January 1, 2024, there are no Community Integrated Service Network (CISN) licensed in the State of Minnesota.
[2] For purposes of this report, MDH is not including the Medical Assistance Nursing Home License Surcharge, Hospital Surcharge, and ICF-DD License Surcharge

The taxation that is specific to HMOs and insurance companies is based on premiums, as follows:

- **HMOs (nonprofit and for profit)**: total of 1.6% premium tax (1% premium tax plus 0.6% premium surcharge related to Medical Assistance)
- **Insurance companies**: 2% premium tax
- **Nonprofit health service plan corporations**: 1% premium tax

Current tax treatment does not differentiate between for-profit and nonprofit companies. It does differentiate between HMOs and nonprofit health plan service corporations vs. health insurers. In 2023, HMOs paid just over $113.7 million in premium taxes, with $2.4 million of that coming from for-profit HMOs.