

# Form & Manner: Notice & Data Reporting of Certain Health Care Transactions

## Submission guidance Minnesota Statutes, section 145D.02

Minnesota Statutes, section 145D.02, requires notice and data submission to the Minnesota Department of Health (MDH) for certain health care entity transactions. These requirements are effective January 1, 2024.

The guidance provided in this document represents a general description of the new requirements and serves as a guide to health care entities subject to [Minnesota Statutes, section 145D.02](#)<sup>1</sup> for submitting notice and data. The guidance does **not** apply to requirements under [Minnesota Statutes, section 145D.01](#).<sup>2</sup> Interested parties wishing to learn more about those requirements can find further detail on the [MDH Market Oversight website](#).<sup>3</sup> for submitting notice and data. The guidance does **not** apply to requirements under [Minnesota Statutes, section 145D.01](#). Interested parties wishing to learn more about those requirements can find further detail on the [MDH Market Oversight website](#).<sup>4</sup>

General questions about this guidance or the requirements in statute may be directed to MDH at [health.hctransactions@state.mn.us](mailto:health.hctransactions@state.mn.us). For specific questions concerning compliance with the law, health care entities may wish to seek legal advice.

Health care entities and interested parties may also access additional information on [MDH Transaction Notices webpage](#).<sup>5</sup> Questions can be sent to [health.hctransactions@state.mn.us](mailto:health.hctransactions@state.mn.us).

The web application is accessible online at the [HEP Data Portal](#).<sup>6</sup>

## Health care entities subject to providing notice & data

Health care entities subject to providing notice and data under the provision covered in this guidance include hospitals, hospital systems, health care provider group practices, medical foundations, or captive professional entities, including any entity organized or controlled by an entity listed above or any entity that owns or exercises control over an entity listed above. See Minnesota Statutes, section 145D.01, subdivision 1.

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<sup>1</sup> Minnesota Statutes, section 145D.02 (<https://www.revisor.mn.gov/statutes/cite/145d.02>)

<sup>2</sup> Minnesota Statutes, section 145D.01 (<https://www.revisor.mn.gov/statutes/cite/145D.01>)

<sup>3</sup> Market Oversight - MN Dept. of Health (<https://www.health.state.mn.us/data/mrktoversight/index.html>)

<sup>4</sup> MDH Market Oversight website (<https://www.health.state.mn.us/data/mrktoversight/index.html>)

<sup>5</sup> MDH Transaction Notices webpage (<https://www.health.state.mn.us/data/mrktoversight/notices.html>)

<sup>6</sup> HEP Data Portal (<https://hepdataportalui.web.health.state.mn.us>)

Both for-profit and non-profit health care entities are subject to the notice requirement. Non-profit entities have additional requirements under Minnesota Statutes, section 145D.01, subdivision 4.

Notice to MDH is required when at least one health care entity involved in the transaction has average revenue between \$10,000,000 and \$80,000,000 per year or when the transaction will result in an entity projected to have average revenue of between \$10,000,000 and \$80,000,000 per year once the entity is operating at full capacity. See Minnesota Statutes, section 145D.02.

## Transactions subject to notice requirements

The merger, sale, or purchase of some or all assets involving a health care entity, as described above and specified in statute, triggers a notice requirement with MDH. A transaction can be a single action, or a series of actions within a five-year period, which occurs in part within the state of Minnesota or involves a health care entity formed or licensed in Minnesota. See Minnesota Statutes, section 145D.01, subdivision 1, for additional types of transactions subject to notice requirements.

## Timeline for notice requirement

Notice must be provided at least 30 days before the proposed completion date of the transaction, or within ten business days of the date the parties first reasonably anticipate entering into the transaction if the expected completion is within less than 30 days. See Minnesota Statutes, section 145D.02.

## Data submission required as part of notice

Detailed user guides on the form and manner of submissions health care entities must use to submit notice and information are available in the [HEP Data Portal](#).<sup>7</sup>

The following data is required to be submitted as part of the notice.

1. The entities involved in the transaction. Required information includes:
  - A. Business name
  - B. Mailing address
  - C. Website(s)
  - D. Federal Tax ID(s) and tax status as for-profit, non-profit, etc.
  - E. A description of the organization including
    - i. business lines
    - ii. ownership type (corporation, partnership, limited liability corporation, etc.)
    - iii. governance and operational structure (including whether it is organized or controlled by a health care entity or if it owns or exercises control over health care entity)

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<sup>7</sup> HEP Data Portal (<https://hepdataportalui.web.health.state.mn.us>)

2. The leadership, ownership structures, and business relationship of the entities involved in the transaction—including all board members, managing partners, member managers, and officers. Specifically:
  - A. Current diagrams of the parties' organizational structure, as well as any parent and subsidiary organization. A description of organizational changes after the transaction takes place, including diagrams.
  - B. Articles of organization or incorporation, bylaws, partnership agreements, or other corporate governance documents of all entities that are parties to the transaction.
3. The services provided by each entity and the operating and nonoperating revenue for each entity by location, for the last three years.
4. The primary service area for each location.
5. The proposed service area for each location.
6. Description of current and proposed relationships between, locations of, and services provided by the entities and affected health care providers and practices. Specifically:
  - A. Locations at which health care services are provided by each entity.
  - B. Types of services provided by each entity at each location.
  - C. A list of the types of referrals or transfers of patients between the entities.
7. The terms of the transaction agreement(s). This includes:
  - A. Copies of all current agreement(s) (with accompanying appendices and exhibits) of the proposed transaction—including, but not limited to, definitive agreements, affiliation agreements, stock purchase agreements, investor rights agreements.
  - B. Documentation showing the valuation of transaction, including capitalization table if applicable.
  - C. Any annual reports filed with the Securities and Exchange Commission in the past 5 years.
  - D. Any official statements (e.g., prospectus) required for issuing municipal bonds, financial disclosure documents from the issuer of the bond, and any other ongoing disclosure documents about events affecting the bond.
  - E. Copies of any notice of the transaction with the Federal Trade Commission following the [Hart-Scott Rodino Antitrust Improvements Act of 1976](https://www.ftc.gov/legal-library/browse/statutes/hart-scott-rodino-antitrust-improvements-act-1976)<sup>8</sup> and [16 Code of Federal Regulations Parts 801-803](https://www.ecfr.gov/current/title-16/chapter-I/subchapter-H/part-801),<sup>9</sup> a copy of the Premerger Notification and Report Form, and any attachments.
8. Potential areas of expansion, whether in existing markets or new markets.
9. Plans to close facilities, reduce workforce, or reduce or eliminate services.

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<sup>8</sup> Hart-Scott-Rodino Antitrust Improvements Act of 1976 (<https://www.ftc.gov/legal-library/browse/statutes/hart-scott-rodino-antitrust-improvements-act-1976>)

<sup>9</sup> 16 Code of Federal Regulations Parts 801-803 (<https://www.ecfr.gov/current/title-16/chapter-I/subchapter-H/part-801>)

10. The number of full-time equivalent positions at each location before and after the transaction by job category, including administrative and contract positions.
11. Any other information relevant to evaluating the transaction that is requested by the commissioner. Additional information may include:
  - A. Audited financial reports.
  - B. Any documentation related to the liabilities, debts, assets, balance sheets, statements of income and expenses, any accompanying footnotes.
  - C. Community needs assessments, charity care, and community benefit programs.
  - D. Employee staffing levels, wages, benefits, working conditions, and employment protections and anticipated changes to them.
  - E. Any contracts with state payers or plans sold on the state health insurance exchange (e.g., Medical Assistance, Minnesota Care, MNsure).

## Data classification

The data provided to MDH for pursuant to Minnesota Statutes, section 145D.02, is considered private and/or nonpublic, see Minnesota Statutes, section 145D.02, (d). MDH is authorized to share the data with the Attorney General of Minnesota in order to aid in investigation and review of the transaction. The attorney general must maintain data confidentiality.

## Timeline for responding to MDH request for additional information

Once MDH has notified health care entities that additional information is needed, health care entities have 14 days to submit the requested documentation.

## Form & manner of providing required data

Entities subject to providing notice and data must use the secure data system, or data portal, established by MDH. The data submission process consists of registering with the data portal, submitting the required information in the portal, completing the health care transaction workbook (a spreadsheet), and uploading workbook and applicable documents through the portal.

User guides on the form and manner of submissions that health care entities must use to submit notice and data are available on the MDH [Health Care Transaction webpage](#),<sup>10</sup> the website also includes instructions and a link to the portal.

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<sup>10</sup> MDH Transaction Notices webpage (<https://www.health.state.mn.us/data/mrktoversight/notices.html>)

## Questions

Health care entities or their representative may reach out to MDH via email to address any remaining questions: [health.hctransactions@state.mn.us](mailto:health.hctransactions@state.mn.us).

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*To obtain this information in a different format, call: 651-201-4520.*