

**65-4957. Same; cooperative agreements; application for certificate of public advantage; application fees; issuance of certificate of public advantage, when; evaluation of cooperative agreement; amendment of approved agreement.** (a) A health care provider may negotiate and enter into cooperative agreements with other health care providers in the state if the likely benefits resulting from the agreements outweigh any disadvantages attributable to a reduction in competition that may result from the agreements.

(b) Parties to a cooperative agreement may apply to the secretary for a certificate of public advantage approving and governing that cooperative agreement. The application shall include an executed copy of the cooperative agreement and shall describe the nature and scope of the cooperation in the agreement and any consideration passing to any party under the agreement. The application shall be accompanied by an application fee fixed by the secretary by rules and regulations in an amount necessary to defray all or part of the costs of the agency in the determination of whether to grant or deny a certificate of public advantage under the health care provider cooperation act.

(c) The secretary shall review the application in accordance with the standards set forth in subsections (e) and (f) of this section, and shall hold a public hearing in accordance with rules and regulations adopted by the secretary. The secretary shall approve or deny the application within 90 days of the date of filing of the application and that decision shall be in writing and set forth the basis for the decision.

(d) The secretary shall issue a certificate of public advantage for a cooperative agreement if the secretary determines the applicants have demonstrated that the benefits resulting from the agreement outweigh any disadvantages attributable to a reduction in competition that may result from the agreement.

(e) In evaluating the potential benefits of a cooperative agreement, the secretary shall consider whether one or more of the following benefits may result from the cooperative agreement:

(1) Enhancement of the quality of health care provided to Kansas citizens;

(2) preservation of health care facilities or providers, or both, in geographical proximity to the communities traditionally served by those facilities or providers, or both;

(3) increased cost efficiency of services provided by the health care providers involved;

(4) improvements in the utilization of health care resources and equipment; and

(5) avoidance of duplication of resources.

(f) The secretary's evaluation of any disadvantages attributable to a reduction in competition likely to result from the agreement shall include, but not be limited to, the following factors:

(1) The extent of any adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed health care service agents or other health care payers to negotiate optimal payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(2) the extent of any reduction in competition among health care providers or other persons furnishing goods or services to, or in competition with, health care providers that may result directly or indirectly from the cooperative agreement;

(3) the extent of any adverse impact on patients in the quality, availability and cost of health care services; and

(4) the availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition which may result from the agreement.

(g) A cooperative agreement approved pursuant to this act may be amended only after the amendment is approved by the secretary in the same manner as required for initial approval of the cooperative agreement.

**History:** L. 1994, ch. 153, § 3; April 14.