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HOUSE BILL 1811

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Jenkins, Caldier, and Cody

Read first time 01/30/17. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to notice of material changes to the operations  
2 or governance structure of a health care provider or provider  
3 organization; adding a new chapter to Title 19 RCW; and prescribing  
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this  
7 section apply throughout this chapter unless the context clearly  
8 requires otherwise.

9 (1) "Acquisition" means any agreement, arrangement, or activity  
10 the consummation of which results in a person acquiring directly or  
11 indirectly the control of another person, and includes, but is not  
12 limited to, the acquisition of voting securities and noncorporate  
13 interests, such as assets, capital stock, membership interests, or  
14 equity interests. "Acquisition" does not include the sole activity of  
15 employing health care professionals, provided that those health care  
16 professionals' former practice continues to operate.

17 (2) "Carrier" means a health maintenance organization, a health  
18 care services contractor, or other entity responsible for the payment  
19 of benefits or provision of services under a group or individual  
20 contract. "Carrier" does not include an employer purchasing coverage  
21 or acting on behalf of its employees.

1 (3) "Contracting affiliation" includes any relationship between  
2 two or more organizations for the purposes of negotiating,  
3 representing, or otherwise acting to establish contracts for the  
4 payment of health care services, including for payment rates,  
5 incentives, and operating terms, with a carrier or third-party  
6 administrator.

7 (4) "Health care professional" means a physician or other health  
8 care practitioner permitted to practice health or health-related  
9 services under Title 18 RCW or chapter 70.127 RCW or otherwise  
10 practicing health care services in this state consistent with state  
11 law.

12 (5) "Health care service contractor" means any corporation,  
13 cooperative group, or association, which is sponsored by or otherwise  
14 intimately connected with a provider or group of providers, who or  
15 which not otherwise being engaged in the insurance business, accepts  
16 prepayment for health care services from or for the benefit of  
17 persons or groups of persons as consideration for providing such  
18 persons with any health care services. "Health care service  
19 contractor" does not include direct patient-provider primary care  
20 practices as defined in RCW 48.150.010.

21 (6) "Health care services" includes medical, surgical,  
22 chiropractic, hospital, optometric, podiatric, pharmaceutical,  
23 ambulance, mental health, substance use disorder, therapeutic,  
24 preventative, diagnostic, curative, rehabilitative, palliative,  
25 custodial, and any other services rendered by a health care  
26 professional.

27 (7) "Health maintenance organization" means any organization  
28 receiving a certificate of registration pursuant to chapter 48.46 RCW  
29 which provides comprehensive health care services to enrolled  
30 participants of such organization on a group practice per capita  
31 prepayment basis or on a prepaid individual practice plan, except for  
32 an enrolled participant's responsibility for copayments and  
33 deductibles, either directly or through contractual or other  
34 arrangements with other institutions, entities, or persons, and which  
35 qualifies as a health maintenance organization pursuant to RCW  
36 48.46.030 and 48.46.040.

37 (8) "Hospital" means any entity that is:

38 (a) Defined as a hospital in RCW 70.41.020 and is required to  
39 obtain a license under RCW 70.41.090; or

1 (b) A psychiatric hospital required to obtain a license under  
2 chapter 71.12 RCW.

3 (9) "Hospital system" includes:

4 (a) A parent corporation of one or more hospitals and any entity  
5 affiliated with such parent corporation through ownership,  
6 governance, control, or membership; or

7 (b) A hospital and any entity affiliated with such hospital  
8 through ownership, governance, or membership.

9 (10) "Merger" includes a consolidation or integration of two or  
10 more organizations, including two or more organizations joining  
11 through a common parent organization or two or more organizations  
12 forming a new organization.

13 (11) "Net patient service revenue" means the total revenue  
14 received for patient care from any third-party payer net of any  
15 contractual adjustments. The net patient service revenue for a  
16 hospital is considered to be that which is reported to the department  
17 of health under RCW 43.70.052.

18 (12) "Person" includes, where applicable, natural persons,  
19 corporations, trusts, unincorporated associations, and partnerships.

20 (13) "Provider" includes any person, corporation, partnership,  
21 governmental unit, state institution, or any other entity qualified  
22 under the laws of the state to perform or provide health care  
23 services.

24 (14) "Provider organization" includes any corporation,  
25 partnership, business trust, association, or organized group of  
26 persons, whether incorporated or not, which is in the business of  
27 health care delivery or management and that represents one or more  
28 health care providers in contracting with carriers or third-party  
29 administrators for the payments of health care services. A "provider  
30 organization" includes, but is not limited to, physician  
31 organizations, physician-hospital organizations, independent practice  
32 associations, provider networks, accountable care organizations, and  
33 any other organization that contracts with carriers or third-party  
34 administrators for payment for health care services.

35 (15) "Third-party administrator" means an entity that administers  
36 payments for health care services on behalf of a client in exchange  
37 for an administrative fee.

38 NEW SECTION. **Sec. 2.** NOTICE OF MATERIAL CHANGE. (1) Not less  
39 than thirty days prior to the effective date of any transaction that

1 results in a material change to the operations or governance  
2 structure of a provider or provider organization, each party to the  
3 transaction shall submit written notice to the attorney general of  
4 such material change.

5 (2) For the purposes of this section, a material change includes,  
6 but is not limited to, the following types of proposed changes  
7 involving a provider or provider organization:

8 (a) A merger or contracting affiliation with, or acquisition of  
9 or by, a hospital or hospital system;

10 (b) A merger with, or acquisition of or by, a carrier;

11 (c) A merger with, or acquisition of or by, another provider,  
12 providers, or provider organization that would result in:

13 (i) An increase in net patient service revenue of the provider or  
14 provider organization of ten million dollars or more;

15 (ii) A provider or provider organization comprised of eight or  
16 more physicians; or

17 (iii) An acquisition of an insolvent provider organization;

18 (d) A contracting affiliation with another provider, providers,  
19 or provider organization that would result in an increase in net  
20 patient service revenue of the provider or provider organization of  
21 ten million dollars or more; or

22 (e) Any formation of a partnership, joint venture, accountable  
23 care organization, parent corporation, management services  
24 organization, or other organization created for administering  
25 contracts, or current or future contracting, on behalf of one or more  
26 providers or provider organizations with carriers or third-party  
27 administrators.

28 (3) A material change includes proposed changes between a  
29 Washington provider or provider organization and an out-of-state  
30 provider or provider organization where the out-of-state provider or  
31 provider organization generates ten million dollars or more in net  
32 patient service revenue from patients residing in Washington state.  
33 Any party to a material change that is licensed or operating in  
34 Washington state shall submit a notice as required under this  
35 section.

36 NEW SECTION. **Sec. 3.** NOTICE REQUIREMENTS. The written notice  
37 provided by each party, as required by section 2 of this act, must  
38 include, but not be limited to:

39 (1) A brief description of the party;

- 1 (2) A current organizational chart for the party;
- 2 (3) A copy of all current agreements governing and related to the  
3 proposed material change;
- 4 (4) A brief description of the nature and objectives of the  
5 proposed material change, including, but not limited to, any exchange  
6 of funds between the parties and whether any changes in health care  
7 services are anticipated in connection with the proposed material  
8 change;
- 9 (5) A roster identifying all physicians on whose behalf the  
10 party, or its corporate affiliate, establishes contracts, including,  
11 but not limited to, names, specialties, and primary practice sites;
- 12 (6) The names of business entities that are currently or will be  
13 providing services following the effective date of the transaction;
- 14 (7) Identification of all locations where health care services  
15 are currently or will be provided and a description of the services  
16 provided at each such location;
- 17 (8) A list of the zip codes that comprise the smallest number of  
18 zip codes from which each party involved in the transaction draws at  
19 least seventy-five percent of its patients, separately identified for  
20 each and every location, based upon the zip code of the patient's  
21 residence;
- 22 (9) A brief description of the anticipated impact of the proposed  
23 material change, including, but not limited to, any anticipated  
24 impact on reimbursement rates, care referral patterns, access to  
25 services, quality of care, and market share; and
- 26 (10) The date and nature of any applications, forms, notices, or  
27 other materials the parties have submitted regarding the proposed  
28 material change to any other state or federal agency.

29 NEW SECTION. **Sec. 4.** HART-SCOTT-RODINO ACT. Any provider or  
30 provider organization conducting business in this state that files a  
31 premerger notification with the federal trade commission or the  
32 United States department of justice, in compliance with the Hart-  
33 Scott-Rodino antitrust improvements act, 15 U.S.C. Sec. 18a, shall  
34 provide written notification to the attorney general of such filing  
35 and, upon request of the attorney general, provide a copy of such  
36 merger, acquisition, or other information. Notification of such  
37 filing does not exempt any provider or provider organization from the  
38 requirements of sections 2 and 3 of this act.

1        NEW SECTION.     **Sec. 5.**     MATERIALS SUBMITTED TO THE ATTORNEY  
2 GENERAL. Information submitted to the attorney general pursuant to  
3 this chapter shall be maintained and used by the attorney general in  
4 the same manner as provided in RCW 19.86.110. Nothing in this chapter  
5 limits the attorney general's authority under RCW 19.86.110 or  
6 19.86.115.

7        NEW SECTION.     **Sec. 6.**     PENALTY FOR NONCOMPLIANCE. Any person who  
8 fails to comply with any provision of this chapter is liable to the  
9 state for a civil penalty of not more than two hundred dollars per  
10 day for each day during which such person is in violation of this  
11 chapter.

12        NEW SECTION.     **Sec. 7.**     Sections 1 through 6 of this act  
13 constitute a new chapter in Title 19 RCW.

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