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**SUBSTITUTE HOUSE BILL 1811**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Jinkins, Caldier, and Cody)

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

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

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

(1) "Acquisition" means any agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes the acquisition of voting securities and noncorporate interests, such as assets, capital stock, membership interests, or equity interests. "Acquisition" does not include the sole activity of employing natural persons to provide health care services, provided that those natural persons' former practice continues to provide health care services.

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

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

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

(5) "Health care services" includes medical, surgical, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, mental health, substance use disorder, therapeutic, preventative, diagnostic, curative, rehabilitative, palliative, custodial, and any other services relating to the prevention, cure, or treatment of illness, injury, or disease.

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

(7) "Hospital" means any entity that is:

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

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

(8) "Hospital system" includes:

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

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

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

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

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

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

(13) "Provider organization" includes any corporation, partnership, business trust, association, or organized group of persons, whether incorporated or not, which is in the business of health care delivery or management and that represents one or more health care providers in contracting with carriers or third-party administrators for the payments of health care services. A "provider organization" includes physician organizations, physician-hospital organizations, independent practice associations, provider networks, accountable care organizations, and any other organization that contracts with carriers or third-party administrators for payment for health care services.

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

NEW SECTION. **Sec.**  NOTICE OF MATERIAL CHANGE. (1) Not less than thirty days prior to the effective date of any transaction that results in a material change to the operations or governance structure of a provider or provider organization, each party to the transaction shall submit written notice to the attorney general of such material change.

(2) For the purposes of this section, a material change includes the following types of proposed changes involving a provider or provider organization:

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

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

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

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

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

(iii) An acquisition of an insolvent provider organization;

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

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

(3) A material change includes proposed changes identified in subsection (2) of this section between a Washington provider or provider organization and an out-of-state provider or provider organization where the out-of-state provider or provider organization generates ten million dollars or more in net patient service revenue from patients residing in Washington state. Any party to a material change that is licensed or operating in Washington state shall submit a notice as required under this section.

NEW SECTION. **Sec.**  NOTICE REQUIREMENTS. The written notice provided by each party, as required by section 2 of this act, must include:

(1) A brief description of the party;

(2) A current organizational chart for the party;

(3) A copy of all current agreements governing and related to the proposed material change;

(4) A brief description of the nature and objectives of the proposed material change, including any exchange of funds between the parties and whether any changes to the health care services offered by the filing parties are known or reasonably anticipated in connection with the proposed material change;

(5) A roster identifying all physicians on whose behalf the party, or its corporate affiliate, establishes contracts, including names, specialties, and primary practice sites;

(6) The names of business entities that are currently or will be providing health care services following the effective date of the transaction;

(7) Identification of all locations where health care services are currently or will be provided and a description of the services provided at each such location;

(8) A list of the zip codes that comprise the smallest number of zip codes from which each party involved in the transaction draws at least seventy-five percent of its patients, separately identified for each and every location, based upon the zip code of the patient's residence;

(9) A brief description of the known or reasonably anticipated impact of the proposed material change, including any known or reasonably anticipated impact on reimbursement rates, care referral patterns, access to services, quality of care, and market share; and

(10) The date and nature of any applications, forms, notices, or other materials the parties have submitted regarding the proposed material change to any other state or federal agency.

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

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

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

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

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