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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)

READ FIRST TIME 02/02/18.

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 the  
12 acquisition of voting securities and noncorporate interests, such as  
13 assets, capital stock, membership interests, or equity interests.  
14 "Acquisition" does not include the sole activity of employing natural  
15 persons to provide health care services, provided that those natural  
16 persons' former practice continues to provide health care services.

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

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

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

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

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

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

37 (8) "Hospital system" includes:

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

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 2.** NOTICE OF MATERIAL CHANGE. (1) Not less  
33 than thirty days prior to the effective date of any transaction that  
34 results in a material change to the operations or governance  
35 structure of a provider or provider organization, each party to the  
36 transaction shall submit written notice to the attorney general of  
37 such material change.

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

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

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

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 3.** NOTICE REQUIREMENTS. The written notice  
33 provided by each party, as required by section 2 of this act, must  
34 include:

35 (1) A brief description of the party;

36 (2) A current organizational chart for the party;

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

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

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

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

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

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

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

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

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

37 NEW SECTION. **Sec. 5.** MATERIALS SUBMITTED TO THE ATTORNEY  
38 GENERAL. Information submitted to the attorney general pursuant to

1 this chapter shall be maintained and used by the attorney general in  
2 the same manner as provided in RCW 19.86.110. Nothing in this chapter  
3 limits the attorney general's authority under RCW 19.86.110 or  
4 19.86.115.

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

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

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