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**HOUSE BILL 1607**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Caldier, Jinkins, Robinson, Macri, and Cody

AN ACT Relating to notice of material changes to the operations or governance structure of participants in the health care marketplace; 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.**  INTENT. It is the intent of the legislature to ensure that competition beneficial to consumers in health care markets across Washington remains vigorous and robust. The legislature supports that intent through this act, which provides the attorney general with notice of all material health care transactions in this state so that the attorney general has the information necessary to determine whether an investigation under the consumer protection act is warranted for potential anticompetitive conduct and consumer harm. This act is intended to supplement the federal Hart-Scott-Rodino antitrust improvements act, Title 15 U.S.C. Sec. 18a, by requiring notice of transactions not reportable under Hart-Scott-Rodino reporting thresholds and by providing the attorney general with a copy of any filings made pursuant to the Hart-Scott-Rodino act.

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.

(2) "Carrier" means the same as in RCW 48.44.010.

(3) "Contracting affiliation" includes any relationship between two or more entities that permits the entities to negotiate jointly with carriers or third-party administrators over rates for professional medical services, or for one entity to negotiate on behalf of the other entity with carriers or third-party administrators over rates for professional medical services.

(4) "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.

(5) "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.

(6) "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.

(7) "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.

(8) "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.

(9) "Patient service revenue" means the total revenue received for patient care in the previous twelve months.

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

(11) "Provider" includes any natural person who practices a profession identified in RCW 18.130.040.

(12) "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 seven 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.

(13) "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, 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 a merger, acquisition, or contracting affiliation between two or more entities of the following types:

(a) Hospitals;

(b) Hospital systems; or

(c) Provider organizations.

(3) A material change includes proposed changes identified in subsection (2) of this section between a Washington entity and an out-of-state entity where the out-of-state entity generates ten million dollars or more in 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 3 of this act, must include:

(1) The names of the parties and their current business addresses;

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

(3) A brief description of the nature and objectives of the proposed material change; and

(4) The anticipated effective date of the proposed material change.

NEW SECTION. **Sec.**  REQUESTS FOR ADDITIONAL INFORMATION. The attorney general shall make any requests for additional information from the parties under RCW 19.86.110 within thirty days of the date notice is received under sections 3 and 4 of this act. Nothing in this section precludes the attorney general from conducting an investigation or enforcing state or federal antitrust laws at a later date.

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, Title 15 U.S.C. Sec. 18a, shall provide a copy of such filing to the attorney general. Providing a copy of the Hart-Scott-Rodino filing to the attorney general satisfies the notice requirement under section 4 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.**  The notice requirement in section 3 of this act applies to transactions with an anticipated effective date on or after January 1, 2020.

NEW SECTION. **Sec.**  Sections 1 through 9 of this act constitute a new chapter in Title 19 RCW.

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