
SENATE BILL 5704

State of Washington

69th Legislature

2025 Regular Session

By Senators Dhingra, Alvarado, Trudeau, Pedersen, Lovelett, Valdez, Saldaña, Krishnadasan, C. Wilson, Shewmake, Riccelli, Nobles, Ramos, Kauffman, and Slatter

1 AN ACT Relating to material changes to the operations and
2 governance structure of participants in the health care marketplace;
3 amending RCW 19.390.010, 19.390.020, 19.390.030, 19.390.040,
4 19.390.050, 19.390.080, and 19.390.070; adding new sections to
5 chapter 19.390 RCW; creating a new section; and providing an
6 effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

9 (1) The existence of accessible and affordable health care
10 services that are responsive to the needs of the community is an
11 important public policy goal.

12 (2) The COVID-19 pandemic laid bare both the crucial importance
13 of our health care systems and the inequities that exist and
14 exacerbate harm to marginalized communities, including in access to
15 and delivery of affordable, quality care.

16 (3) Health entity mergers, acquisitions, and contracting
17 affiliations impact cost, quality, and access to health care, and
18 affect working conditions and employee benefits.

19 (4) Health entity mergers, acquisitions, and contracting
20 affiliations have been shown to result in anticompetitive
21 consequences, including higher prices and a lack of any meaningful

1 choice among health care providers within a community or geographic
2 region. These negative outcomes are exacerbated for those in rural
3 areas with few health care providers.

4 (5) The legislature is committed to ensuring that Washingtonians
5 have access to the full range of reproductive, end-of-life, and
6 gender-affirming health care services. Yet, Washingtonians continue
7 to experience difficulty accessing gender-affirming care, and health
8 entity mergers and acquisitions in Washington state have resulted in
9 material reductions in reproductive and end-of-life health care
10 services, to the detriment of communities and patients.

11 (6) Health entity mergers, acquisitions, and contracting
12 affiliations must improve rather than harm access to affordable
13 quality health care.

14 **Sec. 2.** RCW 19.390.010 and 2019 c 267 s 1 are each amended to
15 read as follows:

16 (1) It is the intent of the legislature to ensure that
17 competition beneficial to consumers in health care markets across
18 Washington remains vigorous and robust and that health care be
19 affordable and accessible. The legislature supports ~~((that intent))~~
20 these intents through this chapter, which provides the attorney
21 general and health care authority with notice of all material health
22 care transactions in this state so that the attorney general has the
23 information necessary to determine whether an investigation under the
24 consumer protection act is warranted for potential anticompetitive
25 conduct and consumer harm. This chapter is intended to supplement the
26 federal Hart-Scott-Rodino antitrust improvements act, Title 15 U.S.C.
27 Sec. 18a, by requiring notice of transactions not reportable under
28 Hart-Scott-Rodino reporting thresholds and by providing the attorney
29 general with a copy of any filings made pursuant to the Hart-Scott-
30 Rodino act. In addition to ensuring vigorous and robust competition
31 in health care markets, this chapter is also intended to ensure
32 material change transactions result in the affected communities
33 having the same or greater access to quality, affordable care
34 including, but not limited to, emergency care, primary care,
35 reproductive care, end-of-life care including services provided in
36 accordance with chapter 70.245 RCW, and gender-affirming care.

37 (2) Notwithstanding the language in this chapter regarding the
38 health care authority's and the attorney general's authority to
39 determine the effect of a material change transaction on access to

1 care, nothing in this chapter is intended to derogate from or
2 otherwise affect in any way the attorney general's authority to
3 conduct an investigation, or the process of any investigation, under
4 chapter 19.86 RCW. Nothing in this section is intended to change or
5 affect in any way any substantive law regarding the antitrust review
6 of a material change transaction.

7 **Sec. 3.** RCW 19.390.020 and 2019 c 267 s 2 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Access, affordability, quality, and equity review" means the
12 analysis performed by the health care authority under section 12 of
13 this act.

14 (2) "Acquisition" means an agreement, arrangement, or activity
15 the consummation of which results in a person acquiring directly or
16 indirectly the control of another person, and includes the
17 acquisition of voting securities and noncorporate interests, such as
18 assets, capital stock, membership interests, or equity interests.

19 ~~((2))~~ (3) "Antitrust review" means the review conducted by the
20 attorney general to determine if a transaction may violate state or
21 federal antitrust laws.

22 (4) "Carrier" means the same as in RCW 48.43.005.

23 ~~((3))~~ (5) "Contracting affiliation" means the formation of a
24 relationship between two or more entities that permits the entities
25 to negotiate jointly with carriers or third-party administrators over
26 rates for professional medical services, or for one entity to
27 negotiate on behalf of the other entity with carriers or third-party
28 administrators over rates for professional medical services.
29 "Contracting affiliation" does not include arrangements among
30 entities under common ownership or arrangements where at least one
31 entity in the arrangement is owned or operated by a state entity.

32 ~~((4))~~ (6) "Gender-affirming care" means a service or product
33 that a health care provider, as defined in RCW 70.02.010, prescribes
34 to an individual to treat any condition related to the individual's
35 gender identity and is prescribed in accordance with generally
36 accepted standards of care. "Gender-affirming care" must be covered
37 in a manner compliant with state law and the federal mental health
38 parity and addiction equity act of 2008 and the federal patient
39 protection and affordable care act of 2010 and implementing

1 regulations in effect as of January 1, 2025. "Gender-affirming care"
2 can be prescribed to two spirit, transgender, nonbinary, intersex,
3 and other gender-diverse individuals.

4 (7) "Health care authority" means the Washington state health
5 care authority.

6 (8) "Health care services" means medical, surgical, chiropractic,
7 hospital, optometric, podiatric, pharmaceutical, ambulance, mental
8 health, substance use disorder, therapeutic, preventative,
9 diagnostic, curative, rehabilitative, palliative, custodial, and any
10 other services relating to the prevention, cure, or treatment of
11 illness, injury, or disease in humans. "Health care services" may be
12 provided virtually, on-demand, or in brick and mortar settings.

13 ~~((5))~~ (9) "Health care services revenue" means ((the total
14 revenue received for health care services in the previous twelve
15 months)) combined Washington-derived revenue from health care
16 services or administration from a party and all of its affiliates
17 including, but not limited to, patient revenue and premiums paid to
18 carriers, as applicable.

19 ~~((6))~~ (10) "Health maintenance organization" means an
20 organization receiving a certificate of registration pursuant to
21 chapter 48.46 RCW which provides comprehensive health care services
22 to enrolled participants of such organization on a group practice per
23 capita prepayment basis or on a prepaid individual practice plan,
24 except for an enrolled participant's responsibility for copayments
25 and deductibles, either directly or through contractual or other
26 arrangements with other institutions, entities, or persons, and which
27 qualifies as a health maintenance organization pursuant to RCW
28 48.46.030 and 48.46.040.

29 ~~((7))~~ (11) "Hospital" means a facility licensed under chapter
30 70.41 or 71.12 RCW.

31 ~~((8))~~ (12) "Hospital system" means:

32 (a) A parent corporation of one or more hospitals and any entity
33 affiliated with such parent corporation through ownership or control;
34 or

35 (b) A hospital and any entity affiliated with such hospital
36 through ownership.

37 ~~((9))~~ (13) "Merger" means a consolidation of two or more
38 organizations, including two or more organizations joining through a
39 common parent organization or two or more organizations forming a new
40 organization, but does not include a corporate reorganization.

1 (~~(10)~~) (14) "Person" means, where applicable, natural persons,
2 corporations, trusts, and partnerships.

3 (~~(11)~~) (15) "Provider" means a natural person who practices a
4 profession identified in RCW 18.130.040.

5 (~~(12)~~) (16) "Provider organization" means a corporation,
6 partnership, business trust, association, or organized group of
7 persons, whether incorporated or not, which is in the business of
8 health care delivery or management and that represents seven or more
9 health care providers in contracting with carriers or third-party
10 administrators for the payments of health care services. A "provider
11 organization" includes physician organizations, physician-hospital
12 organizations, independent practice associations, provider networks,
13 and accountable care organizations.

14 (~~(13)~~) (17) "Reproductive health care" means any medical
15 services or treatments, including but not limited to pharmaceutical
16 and preventive care services or treatments, directly involved in the
17 reproductive system and its processes, functions, and organs involved
18 in reproduction, in all stages of life.

19 (18) "Successor persons" means persons formed by, resulting from,
20 or surviving any material change transaction under this chapter.

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

24 **Sec. 4.** RCW 19.390.030 and 2019 c 267 s 3 are each amended to
25 read as follows:

26 (1) Not less than (~~(sixty)~~) 90 days prior to the effective date
27 of any transaction that results in a material change transaction, the
28 parties to the transaction shall submit written notice to the health
29 care authority and the attorney general of such material change
30 transaction.

31 (2) For the purposes of this (~~(section)~~) chapter, a material
32 change transaction includes a merger, acquisition, or contracting
33 affiliation between two or more entities of the following types:

34 (a) Hospitals;

35 (b) Hospital systems; (~~(or)~~)

36 (c) Provider organizations; or

37 (d) Between the following entities:

1 (i) An entity described in (a) of this subsection and a carrier
2 or an insurance holding company system, as defined in RCW 48.31B.005;
3 or

4 (ii) An entity described in (a) of this subsection and any other
5 person or entity that has as its primary function the provision of
6 health care services or that is a pending or actual parent
7 organization of, has control over, or governance of, an entity that
8 has as its primary function the provision of health care services.

9 (3) A material change transaction includes proposed changes
10 identified in subsection (2) of this section between ~~((a Washington~~
11 ~~entity and an out-of-state entity where the out-of-state entity~~
12 ~~generates ten million dollars or more in health care services revenue~~
13 ~~from patients residing in Washington state, and the entities are of~~
14 ~~the types identified in subsection (2) of this section)) Washington~~
15 entities, as well as between Washington entities described in
16 subsection (2) of this section and out-of-state entities. Any party
17 to a material change transaction that is licensed or operating in
18 Washington state shall submit a notice as required under this
19 section.

20 (4) For purposes of subsection (2) of this section, a merger,
21 acquisition, or contracting affiliation between two or more
22 hospitals, hospital systems, or provider organizations only qualifies
23 as a material change transaction if the hospitals, hospital systems,
24 or provider organizations did not previously have common ownership or
25 a contracting affiliation.

26 (5) The attorney general shall determine whether a specific
27 transaction qualifies as a material change transaction.

28 (6) (a) In a case of an extraordinary emergency situation that
29 threatens access to health care services and has the potential to
30 immediately harm consumers, the attorney general may allow parties to
31 a transaction to submit notice less than 90 days before the effective
32 date of any transaction.

33 (b) If the parties to a material change transaction seek to
34 submit notice less than 90 days before the effective date of a
35 transaction, the parties shall provide documentation to the attorney
36 general and health care authority demonstrating the existence of an
37 extraordinary emergency situation, including a complete statement of
38 facts, circumstances, and conditions which demonstrate the
39 extraordinary emergency situation.

1 (c) No later than 45 days after receiving notice under (b) of
2 this subsection, the attorney general must notify the parties and the
3 health care authority whether the material change transaction is
4 subject to emergency review or is subject to preliminary review
5 requiring parties to provide documentation pursuant to RCW
6 19.390.040. If the material change transaction is accepted for
7 emergency review, the attorney general's office must approve, approve
8 with conditions or modifications, or deny the transaction within 90
9 days. If the attorney general denies emergency review, the
10 transaction shall be subject to preliminary review by the health care
11 authority.

12 **Sec. 5.** RCW 19.390.040 and 2019 c 267 s 4 are each amended to
13 read as follows:

14 (1) ((The)) For material change transactions where no parties are
15 hospitals or hospital systems and no parties have generated
16 \$10,000,000 or more in health care services revenue in any of their
17 preceding three fiscal years or if any of the parties is a federally
18 qualified health center or rural health clinic as those terms are
19 defined by 42 U.S.C. Sec. 1395x(aa) or safety net nonprofit family
20 planning providers specializing in the provision of the full range of
21 reproductive health options, the written notice provided by the
22 parties to the health care authority and attorney general, as
23 required by RCW 19.390.030, must include:

24 (a) The names of the parties and their current business
25 addresses;

26 (b) Identification of all locations where health care services
27 are currently provided by each party;

28 (c) A brief description of the nature and purpose of the proposed
29 material change transaction; and

30 (d) The anticipated effective date of the proposed material
31 change transaction.

32 (2) For material change transactions where no parties are
33 hospitals or hospital systems, all of the parties serve predominantly
34 low-income medically underserved individuals, all of the parties had
35 for each of their preceding three fiscal years at least 50 percent of
36 their total patient revenue come from medicaid or local, state, or
37 federal funding to provide care to uninsured or underinsured
38 individuals, and the material change transaction would not result in
39 materially lowering the overall level of care the successor persons

1 provide to individuals on medicaid or who are uninsured or
2 underinsured, or cause, for the successor persons, the percentage of
3 total patient revenue that comes from medicaid or local, state, or
4 federal funding to provide care to uninsured or underinsured
5 individuals to drop below 50 percent, the written notice provided by
6 the parties to the health care authority and attorney general, as
7 required by RCW 19.390.030, must include:

8 (a) The information and documentation required under subsection
9 (1) of this section; and

10 (b) Documentation demonstrating that all the parties to the
11 material change transaction had for each of their preceding three
12 fiscal years at least 50 percent of their total patient revenue come
13 from medicaid or local, state, or federal funding to provide care to
14 uninsured or underinsured individuals, and a statement from the
15 parties describing how the material change transaction will result in
16 the successor persons complying with the requirements under this
17 subsection.

18 (3) (a) For all material change transactions other than those
19 specified under subsections (1) and (2) of this section, and except
20 for transactions that fall under subsection (4) of this section, the
21 written notice provided by the parties to the health care authority
22 and attorney general, as required by RCW 19.390.030, must include the
23 following information, unless the attorney general agrees to narrow
24 the scope of information needed relevant to the material change
25 transaction:

26 (i) The information and documentation required under subsection
27 (1) of this section; and

28 (ii) Additional documentation established by rule making by the
29 health care authority including, but not limited to, information
30 about the parties' organizational structure, finances, and the
31 potential impact of the transaction on health care services, patient
32 access and affordability, policies and procedures, community benefit,
33 and staffing.

34 (b) When documents are readily available from a publicly
35 available source for state or federal agencies, the parties may
36 indicate the public availability to the health care authority and
37 attorney general with information on how to access the documents
38 rather than providing the documents directly.

39 (4) (a) In cases of an extraordinary emergency situation that
40 threatens access to health care services and has the potential to

1 immediately harm consumers, the attorney general may limit the
2 information otherwise required by subsection (3) of this section for
3 the sole purpose of expediting the review process.

4 (b) If the parties to a material change transaction seek
5 expedited review under (a) of this subsection, the parties shall
6 provide documentation to the attorney general and health care
7 authority demonstrating the existence of an extraordinary emergency
8 situation including a complete statement of facts, circumstances, and
9 conditions which demonstrate the extraordinary emergency situation.

10 (c) The attorney general shall respond within 10 days to advise
11 the parties and the health care authority as to whether any
12 information otherwise required by subsection (3) of this section may
13 be waived.

14 (d) Nothing in this subsection alters the preliminary or
15 comprehensive review and oversight required under RCW 19.390.050,
16 19.390.070, and 19.390.080 and sections 7 and 9 through 16 of this
17 act.

18 (e) Nothing in this subsection alters the information collection
19 requirements in other sections of this chapter including the
20 requirement of a public hearing under section 11 of this act.

21 (5) The attorney general and health care authority shall charge
22 an applicant fees to assist in covering the costs of implementing
23 this chapter. The attorney general and health care authority may
24 adopt rules to set the applicable fees.

25 (6) The attorney general and the health care authority may
26 request additional information that is necessary to implement the
27 goals of this chapter.

28 (7) Nothing in this section prohibits the parties to a material
29 change transaction from voluntarily providing additional information
30 to the attorney general or the health care authority.

31 **Sec. 6.** RCW 19.390.050 and 2019 c 267 s 5 are each amended to
32 read as follows:

33 ((The)) For the purpose of conducting an antitrust investigation
34 under chapter 19.86 RCW or federal antitrust laws, the attorney
35 general shall make any requests for additional information from the
36 parties under RCW 19.86.110 within ((thirty)) 30 days of the date
37 notice is received under RCW 19.390.030 and 19.390.040. ((Nothing))
38 Regardless of whether the attorney general requests additional
39 information from the parties, nothing in this section precludes the

1 attorney general from conducting an investigation or enforcing any
2 state or federal (~~(antitrust)~~) laws at a later date.

3 NEW SECTION. **Sec. 7.** (1) The attorney general shall determine
4 if the notice required under RCW 19.390.030 and 19.390.040 is
5 complete for the purpose of transaction review. If the attorney
6 general determines that a notice is incomplete, it shall notify the
7 parties within 30 days after the date the notice was received stating
8 the reasons for its determination of incompleteness.

9 (2) A completed notice shall be deemed received on the date when
10 all the information required by RCW 19.390.040 has been submitted to
11 the attorney general's office.

12 (3) For all material change transactions included under RCW
13 19.390.040(3), the attorney general shall, within seven days after
14 receipt of a completed notice, include information about the notice
15 on the attorney general's website. The information must state that a
16 notice has been received, state the names of the parties to the
17 material change transaction, describe the contents of the written
18 notice in clear and simple terms, and state the date and process by
19 which a person may submit written comments about the notice to the
20 attorney general's office.

21 (4) The attorney general is not required to make public any
22 information submitted pursuant to its investigative authority under
23 chapter 19.86 RCW, or any information or analysis associated with an
24 investigation under chapter 19.86 RCW.

25 **Sec. 8.** RCW 19.390.080 and 2019 c 267 s 8 are each amended to
26 read as follows:

27 Any person who fails to comply with (~~(any provision of this~~
28 ~~chapter)) RCW 19.390.030 or 19.390.040 is liable to the state for a
29 civil penalty of (~~(not more than two hundred dollars per day for each~~
30 ~~day during which such person is in violation of this chapter)) up to
31 10 percent of the value of the material change transaction, in the
32 discretion of the attorney general.~~~~

33 NEW SECTION. **Sec. 9.** (1) No material change transaction under
34 this chapter may take place if it would detrimentally affect the
35 continued existence of accessible, affordable health care in
36 Washington state for at least five years after the transaction
37 occurs. To this end the material change transaction must result in

1 the affected communities having the same or greater access to
2 quality, affordable care, including but not limited to emergency
3 care, primary care, specialty care, behavioral health care,
4 reproductive health care, gender-affirming care, and end-of-life care
5 including services provided in accordance with chapter 70.245 RCW,
6 and essential health benefit categories as defined in RCW 48.43.005.

7 (2) The material change transaction must also result in at least
8 one of the following:

9 (a) Maintaining or reducing the rate of growth in patient and
10 health plan sponsor costs;

11 (b) Maintaining or increasing access to services in medically
12 underserved areas;

13 (c) Rectifying historical and contemporary factors contributing
14 to a lack of health equities or access to services; or

15 (d) Maintaining or improving health outcomes for residents of
16 this state.

17 (3) The material change transaction must not result in the
18 revocation of hospital privileges and must establish sufficient
19 safeguards to maintain appropriate capacity for health provider
20 education.

21 (4) The material change transaction must not result in a
22 reduction in staffing capacity for the provision of medically
23 necessary services to the extent such reductions would diminish
24 patients' access to quality care.

25 (5) Nothing in this chapter is intended to derogate from or
26 otherwise affect in any way the attorney general's authority to
27 conduct an investigation, or the process of any investigation, under
28 chapter 19.86 RCW. Nothing in this section is intended to change or
29 affect in any way any substantive law regarding the antitrust
30 analysis of a material change transaction.

31 NEW SECTION. **Sec. 10.** (1) For all material change transactions
32 included under RCW 19.390.040(3), the health care authority shall
33 conduct a preliminary review of the completed notice to determine if
34 the material change transaction will fulfill the requirements under
35 section 9 of this act. The review must include, but is not limited
36 to, an analysis of the information and documentation provided under
37 RCW 19.390.040 and one public hearing.

38 (2) After conducting the preliminary review, if the health care
39 authority determines that the material change transaction is likely

1 to fulfill the requirements under section 9 of this act, the health
2 care authority may not conduct a comprehensive review of the material
3 change transaction as provided under this section and section 12 of
4 this act.

5 (3) The health care authority shall, within 60 days of receiving
6 a completed notice, inform parties to a material change transaction
7 as to whether a comprehensive review of the material change
8 transaction is required. If the health care authority determines a
9 comprehensive review of the material change transaction is not
10 required, the health care authority shall prepare a report and
11 recommendation for the attorney general and provide it to the
12 attorney general within 10 days of making its determination. The
13 report and recommendation must include a recommendation as to whether
14 the material change transaction should be approved, approved with
15 conditions or modifications, or rejected, and provide the basis for
16 the recommendation.

17 (4) For all material change transactions included under RCW
18 19.390.040(3) that are not limited to the preliminary review, the
19 health care authority shall review the completed notice; conduct a
20 comprehensive review in collaboration with the Washington office of
21 the insurance commissioner, Washington health benefit exchange, and
22 Washington department of health; and prepare a report and
23 recommendation for the attorney general and provide it to the
24 attorney general within 30 days of making its determination. The
25 report and recommendation must include a recommendation as to whether
26 the material change transaction should be approved, approved with
27 conditions or modifications, or rejected, and provide the basis for
28 the recommendation.

29 (5) After reviewing the health care authority's report and
30 recommendation, the attorney general shall within 30 days of
31 receiving the health care authority's report and recommendation:

32 (a) Approve the material change transaction in writing if the
33 attorney general determines that the transaction does not violate the
34 requirements of section 9 of this act. The approval of a material
35 change transaction pursuant to this chapter does not constitute
36 approval for the purpose of RCW 19.86.170, or any other provision of
37 state or federal consumer protection or antitrust law. Such approval
38 pursuant to this chapter does not preclude the attorney general from
39 taking any action to enforce state or federal consumer protection or
40 antitrust laws;

1 (b) Impose conditions or modifications on the material change
2 transaction to ensure the requirements of section 9 of this act are
3 met and that sufficient safeguards are in place to ensure communities
4 have continued or improved access to affordable quality care. The
5 imposition of such conditions or modifications shall be in writing
6 and constitute a final decision subject to all appellate rights
7 contained within this chapter; or

8 (c) Disapprove the material change transaction in writing with
9 written justification, which shall constitute a final decision
10 subject to all appellate rights contained within this act.

11 (6) Whenever the attorney general approves, approves with
12 conditions or modifications, or disapproves a material change
13 transaction, it shall promptly inform the parties and the health care
14 authority of its decision.

15 (7) Within 30 days after a final decision of the attorney general
16 either denying or approving with modifications a material change
17 transaction, any party to the material change transaction may appeal
18 the decision to the superior court. An appeal to the superior court
19 shall be to the superior court of a county in which the material
20 change transaction is to have occurred or to the superior court for
21 Thurston county. Such appeal shall be perfected by filing with the
22 clerk of the court a notice of appeal and by serving a copy thereof
23 by mail, or personally, on the attorney general or their appointed
24 designee. The attorney general shall, in all cases within 15 days
25 after the receipt of such notice of appeal, serve and file its notice
26 of appearance and such appeal shall thereupon be deemed at issue. The
27 attorney general shall serve upon the appealing party and file with
28 the clerk of the court within 30 days of the filing of the appeal, a
29 certified copy of the attorney general's official record which shall
30 include the final decision, and all accompanying documents, subject
31 to the same confidentiality protections provided to such documents in
32 the underlying act. These shall become the record in the case subject
33 to leave of the court. The superior court shall review the final
34 decision of the attorney general, subject to the statutory
35 requirements of the underlying act and chapter 34.05 RCW.

36 (8) The attorney general may not make its decision to disapprove
37 the material change transaction subject to any condition not directly
38 and rationally related to the requirements under section 9 of this
39 act and any condition or modification must bear a direct and rational

1 relationship to the notice under review and the requirements under
2 section 9 of this act.

3 (9) Nothing in this chapter is intended to derogate from or
4 otherwise affect in any way the attorney general's authority to
5 conduct an investigation, or the process of any investigation, under
6 chapter 19.86 RCW. Nothing in this section is intended to change or
7 affect in any way any substantive law regarding the antitrust review
8 of a material change transaction.

9 NEW SECTION. **Sec. 11.** (1) During the course of review of
10 notices of material change transactions under RCW 19.390.040(3), the
11 health care authority shall conduct at least one public hearing,
12 which may occur remotely. At each hearing, anyone may file written
13 comments and exhibits or appear and make a statement. The attorney
14 general may subpoena additional information or witnesses, require and
15 administer oaths, require sworn statements, take depositions, and use
16 related discovery procedures for purposes of the hearing and at any
17 time prior to making a decision on the material change transaction.

18 (2) If a public hearing is scheduled, at least 15 days prior to
19 the hearing, the health care authority shall provide notice of the
20 time and place of the hearing on its website and to any person who
21 has requested notice of the hearing in writing, and the parties to
22 the material change transaction shall provide notice of the time and
23 place of the hearing on their websites, and to all employees and
24 patients of affected health care providers. Notice under this
25 subsection shall be provided in English, Spanish, and the three most
26 common other languages spoken in the affected community.

27 (3) Within 15 business days of the last hearing, the health care
28 authority shall compile a summary report of each public hearing
29 proceeding and post the summary report on its website.

30 (4) If after the initial public hearing there is any change in
31 the terms of the material change transaction that materially alters
32 any of the information that the parties to the material change
33 transaction provided under RCW 19.390.040(3), the health care
34 authority shall conduct an additional public hearing to ensure
35 adequate public comment regarding the proposed change.

36 (5) Nothing in this chapter is intended to derogate from or
37 otherwise affect in any way the attorney general's authority to
38 conduct an investigation, or the process of any investigation, under
39 chapter 19.86 RCW. Nothing in this section is intended to change or

1 affect in any way any substantive law regarding the antitrust review
2 of a material change transaction.

3 NEW SECTION. **Sec. 12.** (1) For any material change transaction
4 included under RCW 19.390.040(3), the health care authority shall
5 conduct an access, affordability, quality, and equity review and
6 prepare a written assessment, which it must include as part of its
7 report and recommendation to the attorney general regarding a
8 specific material change transaction. In creating this written
9 assessment, the health care authority must engage with and provide
10 input in the assessment from public health experts, organizations
11 representing employees of the applicant, health care advocates, and
12 community members who reside in the service areas of the parties to
13 the material change transaction.

14 (2) The health care authority's written assessment must contain
15 information to better inform the health care authority and attorney
16 general as to whether the parties meet the requirements for a
17 material change transaction under section 9 of this act.

18 (3) The health care authority's written assessment must include,
19 but is not limited to, the following information:

20 (a) An assessment of whether the material change transaction will
21 improve or reduce access to health services in the communities
22 impacted by the material change transaction including, but not
23 limited to, emergency care services, primary care services, specialty
24 care services, behavioral health care services, reproductive health
25 care services, gender-affirming health care, and end-of-life services
26 including services provided in accordance with chapter 70.245 RCW;

27 (b) An assessment of whether the material change transaction will
28 reduce health disparities with particular reference to members of
29 medically underserved groups in the parties' service areas;

30 (c) An assessment of the effect of the material change
31 transaction on the affordability and provision of health care
32 services to individuals eligible for medical assistance under chapter
33 74.09 RCW or medicare, indigent individuals, individuals with
34 disabilities, women, racial and ethnic minorities, lesbian, gay,
35 bisexual, transgender, gender diverse, or queer individuals,
36 terminally ill individuals, and other underserved or marginalized
37 populations;

1 (d) An assessment of the effect of the material change
2 transaction on the level and type of charity care the parties to the
3 material change transaction will provide;

4 (e) An assessment of the effect of the material change
5 transaction on any community benefit program that the parties to the
6 material change transaction have historically funded or operated;

7 (f) An assessment of the effect of the material change
8 transaction on staffing for patient care and areas of patient care
9 within facilities as it may affect availability of care, on the
10 likely retention of employees as it may affect continuity of care,
11 and on the rights of employees to provide input on health quality and
12 staffing issues;

13 (g) An assessment of the effect of the material change
14 transaction on the cost of patient care;

15 (h) An assessment of the prior performance of the parties to the
16 material change transaction in meeting state and federal requirements
17 to provide uncompensated care, community services, and access by
18 minorities and people with disabilities to programs receiving federal
19 financial assistance, including the existence of any civil rights
20 access complaints against any of the parties, and how the material
21 change transaction will impact the fulfillment of these requirements;

22 (i) An assessment of whether the material change transaction will
23 have a positive or negative impact on effective communication between
24 the hospitals, hospital systems, or provider organizations and people
25 with limited English-speaking ability and those with speech, hearing,
26 or visual impairments;

27 (j) An assessment of whether the material change transaction will
28 reduce architectural barriers for people with mobility impairments;

29 (k) A review of how the parties to the material change
30 transaction will maintain or improve the quality of health services
31 including a review of:

32 (i) Demographics of the parties' service areas;

33 (ii) Economic status of the population of the parties' services
34 area;

35 (iii) Physician and professional staffing issues related to the
36 material change transaction;

37 (iv) Availability of similar services at other institutions in or
38 near the parties' services area;

39 (v) Existing referral patterns and projected changes to referral
40 patterns; and

1 (vi) Historical and projected market shares of hospitals,
2 hospital systems, and provider organizations in the parties' service
3 area;

4 (l) A financial and economic assessment that includes a
5 description of current costs and competition in the relevant
6 geographic and product market and any anticipated changes in such
7 costs and competition as a result of the material change transaction;

8 (m) A discussion of alternatives to the material change
9 transaction, including: (i) Closure of any of the health facilities
10 that are the subject of the material change transaction; and (ii)
11 recommendations for additional feasible mitigation measures that
12 would reduce or eliminate any significant adverse effect on health
13 care services and affordability identified in the access,
14 affordability, quality, and equity review;

15 (n) An assessment of the effect the material change transaction
16 will have on workforce patterns, including the number of provider and
17 full-time equivalent employees, and patient to staff ratios, by
18 provider type as relevant to the transaction; and

19 (o) An assessment of the effect the material change transaction
20 will have on quality of care, including patient safety, changes in
21 the occurrence of complications, changes in the occurrence of
22 unnecessary procedures, population health, disease prevalence, and
23 quality of care performance in the parties' services area.

24 (4) The information contained in the access, affordability,
25 quality, and equity review must be used by the attorney general's
26 office in determining under section 9 of this act whether to approve,
27 approve with conditions or modifications, or disapprove the material
28 change transaction.

29 (5) The health care authority's written assessment prepared as
30 part of its access, affordability, quality, and equity review must be
31 posted on the health care authority's website.

32 NEW SECTION. **Sec. 13.** (1) The secretary of state may not accept
33 any forms or documents in connection with any material change
34 transaction if the attorney general, in accordance with section 10 of
35 this act, disapproved the material change transaction or the parties
36 to the material change transaction have not agreed to any conditions
37 or modifications imposed by the attorney general in accordance with
38 section 10 of this act.

1 (2) The attorney general may seek an injunction to prevent any
2 material change transaction that has been disapproved by the attorney
3 general in accordance with section 10 of this act or that does not
4 incorporate any conditions or modifications imposed by the attorney
5 general in accordance with section 10 of this act.

6 NEW SECTION. **Sec. 14.** For any material change transaction
7 included under RCW 19.390.040(3), the following apply:

8 (1) Once a material change transaction is finalized the parties
9 shall inform the attorney general in the form and manner prescribed
10 by the attorney general.

11 (2) For at least five years, the attorney general shall monitor
12 the parties' and any successor persons' ongoing compliance with this
13 chapter, and may request information and documents, and conduct on-
14 site compliance audits at the parties' or successor persons' expense.
15 The attorney general is authorized to continue monitoring the parties
16 and any successor person's ongoing compliance for a period of time
17 beyond five years for good cause.

18 (3) The attorney general shall, for five years, require annual
19 reports from the parties to the material change transaction or any
20 successor persons to ensure compliance with section 9 of this act and
21 any conditions or modifications the attorney general imposed on the
22 material change transaction.

23 (4) To effectively monitor ongoing compliance, the attorney
24 general shall regularly provide the opportunity for the public to
25 submit written comments, and may, in its discretion, engage with the
26 health care authority, and contract with experts and consultants.
27 Contract costs should not exceed an amount that is reasonable and
28 necessary to conduct the review and evaluation.

29 (5) The attorney general is entitled to reimbursement from the
30 parties or any successor persons for all actual and direct costs
31 incurred in monitoring ongoing compliance for five years, including
32 contract and administrative costs.

33 (6) The attorney general may bill the parties or successor
34 persons, and the parties or successor billed by the attorney general
35 shall promptly pay. If the parties or successor fail to pay within 30
36 days, the attorney general may assess a civil fine of five percent of
37 the billed amount for each day the party does not pay.

38 (7) If the attorney general has reason to believe that the
39 parties or successor persons of a material change transaction no

1 longer satisfy the requirements of section 9 of this act, or are not
2 complying with any conditions or modifications imposed by the
3 attorney general under section 10 of this act, the attorney general
4 shall notify the health care authority and conduct an investigation.
5 As part of the investigation the attorney general will provide public
6 notice of the investigation and obtain input from community members
7 impacted by the material change transaction. Following the
8 investigation, the attorney general shall publish a report of its
9 findings.

10 (8) If after the investigation, the attorney general determines
11 that the parties or successor persons no longer satisfy the
12 requirements of section 9 of this act, or are not complying with
13 conditions or modifications imposed under section 10 of this act, the
14 attorney general shall notify the health care authority and issue an
15 order directing the parties or successor persons to come into
16 compliance with this chapter and provide a timeline by which the
17 parties must enter into compliance.

18 (9) If the parties or successor persons do not enter into
19 compliance with the attorney general's order, the attorney general
20 shall notify the health care authority and may assess a civil fine of
21 up to one percent of the total value of the material change
22 transaction for each day the parties or successor persons fail to
23 enter into compliance, and may take legal action under section 16 of
24 this act.

25 (10) The cost of the investigation and any on-site reviews
26 related to determining the validity of the information will be borne
27 by the parties to the material change transaction or successor
28 persons.

29 NEW SECTION. **Sec. 15.** The attorney general, in consultation
30 with provider organizations, will develop a simple form that parties
31 or successor persons subject to RCW 19.390.040(2) will submit yearly
32 for five years to demonstrate that the successor persons' overall
33 level of care to individuals on medicaid or who are uninsured or
34 underinsured has not materially lowered and that the successor
35 persons' percentage of total patient revenue that comes from medicaid
36 or local, state, or federal funding to provide care to uninsured or
37 underinsured individuals has not dropped below 50 percent.

1 NEW SECTION. **Sec. 16.** The attorney general has the authority to
2 ensure compliance with commitments that inure to the public interest.
3 The attorney general may take legal action to enforce this chapter,
4 any conditions or modifications the attorney general imposes on a
5 material change transaction, or any order the attorney general issues
6 under section 15 of this act. The attorney general may obtain
7 restitution, injunctive relief, civil penalties, disgorgement of
8 profits, attorneys' fees, and such other relief as the court deems
9 necessary to ensure compliance. The remedies provided under this
10 chapter are in addition to any other remedy that may be available
11 under any other provision of law.

12 **Sec. 17.** RCW 19.390.070 and 2019 c 267 s 7 are each amended to
13 read as follows:

14 (1) Information submitted to the attorney general (~~pursuant to~~
15 ~~this chapter~~) under RCW 19.390.050 shall be maintained and used by
16 the attorney general in the same manner and under the same
17 protections as provided in RCW 19.86.110. The information, including
18 documentary material, answers to written interrogatories, or
19 transcripts of oral testimony produced pursuant to a demand or
20 copies, must not, unless otherwise ordered by a superior court for
21 good cause shown, be produced for inspection or copying pursuant to
22 chapter 42.56 RCW by the person who produced the material, answered
23 written interrogatories or gave oral testimony.

24 (2) All materials provided in response to RCW 19.390.040(3) (a)
25 and (b) and all materials provided during public hearings are
26 considered public records for purposes of chapter 42.56 RCW.

27 (3) Nothing in this chapter limits the attorney general's
28 authority under RCW 19.86.110 or 19.86.115. Nothing in this chapter
29 expands the attorney general's authority under chapter 19.86 RCW,
30 federal or state antitrust law, or any other law. Failure to comply
31 with this chapter does not provide a private cause of action.

32 (4) (a) The parties to a material change transaction may designate
33 portions of documents submitted pursuant RCW 19.390.040(3) and any
34 documents thereafter submitted by the parties as confidential if the
35 information is sensitive financial, commercial, or proprietary
36 information or is protected from disclosure by state or federal law.
37 The applicant shall provide two versions of any document designated
38 as confidential. The first version shall be marked as "CONFIDENTIAL"
39 and contain the full unredacted version of the document, shall be

1 provided to the health care authority and the attorney general, and
2 shall be maintained as confidential by the health care authority and
3 the attorney general. The second version shall be marked as "PUBLIC"
4 and contain a redacted version of the materials from which the
5 confidential portions have been removed or obscured, shall be
6 provided to the health care authority and the attorney general, and
7 shall be made available to the public by the attorney general. An
8 applicant claiming confidentiality in respect to documents shall
9 provide the health care authority and the attorney general with a
10 redaction log that provides a reasonably detailed statement of the
11 grounds on which confidentiality is claimed, citing the applicable
12 basis for confidentiality of each portion.

13 (b) Confidential materials provided by a party to a material
14 change transaction that is subject to review by the attorney general
15 or health care authority shall be maintained as confidential
16 materials and not subject to disclosure under chapter 42.56 RCW.

17 NEW SECTION. Sec. 18. No provision of this chapter derogates
18 from the common law or statutory authority of the attorney general.

19 NEW SECTION. Sec. 19. The attorney general and health care
20 authority may adopt rules necessary to implement this chapter,
21 including creation of an applicant fee structure, and may contract
22 with and provide reasonable reimbursement to qualified persons to
23 assist in determining whether parties or successor persons are in
24 compliance with the requirements under this chapter.

25 NEW SECTION. Sec. 20. If a material change transaction is also
26 subject to review under chapter 70.38 or 70.45 RCW, the review under
27 those chapters shall be concurrent with the review under this
28 chapter, to the extent practicable.

29 NEW SECTION. Sec. 21. This act may be known and cited as the
30 keep our care act.

31 NEW SECTION. Sec. 22. This act does not apply to any pending
32 material change transaction with a letter of intent signed before the
33 effective date of this section.

1 NEW SECTION. **Sec. 23.** Sections 7, 9 through 16, and 18 through
2 22 of this act are each added to chapter 19.390 RCW.

3 NEW SECTION. **Sec. 24.** This act takes effect January 1, 2026.

4 NEW SECTION. **Sec. 25.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

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