H-1145.3

HOUSE BILL 1881

State of Washington 69th Legislature 2025 Regular Session

By Representatives Taylor and Macri

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

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

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

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

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

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

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

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

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

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

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

(1) It is the intent of the legislature to ensure that competition beneficial to consumers in health care markets across Washington remains vigorous and robust and that health care be affordable and accessible. The legislature supports ((~~that intent~~)) these intents through this chapter, which provides the attorney general and health care authority 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 chapter 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. In addition to ensuring vigorous and robust competition in health care markets, this chapter is also intended to ensure material change transactions result in the affected communities having the same or greater access to quality, affordable care including, but not limited to, emergency care, primary care, reproductive care, end-of-life care including services provided in accordance with chapter 70.245 RCW, and gender-affirming care.

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

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

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

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

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

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

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

((~~(3)~~)) (5) "Contracting affiliation" means the formation of a 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. "Contracting affiliation" does not include arrangements among entities under common ownership or arrangements where at least one entity in the arrangement is owned or operated by a state entity.

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

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

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

(8) "Health care services" means 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 in humans. "Health care services" may be provided virtually, on-demand, or in brick and mortar settings.

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

((~~(6)~~)) (10) "Health maintenance organization" means an 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)~~)) (11) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW.

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

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

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

((~~(9)~~)) (13) "Merger" means a consolidation 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, but does not include a corporate reorganization.

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

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

((~~(12)~~)) (16) "Provider organization" means a 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, and accountable care organizations.

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

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

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

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

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

(2) For the purposes of this ((~~section~~)) chapter, a material change transaction 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; or

(d) Between the following entities:

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

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

(3) A material change transaction 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 health care services revenue from patients residing in Washington state, and the entities are of the types identified in subsection (2) of this section~~)) Washington entities, as well as between Washington entities described in subsection (2) of this section and out-of-state entities. Any party to a material change transaction that is licensed or operating in Washington state shall submit a notice as required under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Any person who fails to comply with ((~~any provision of this chapter~~)) RCW 19.390.030 or 19.390.040 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~~)) up to 10 percent of the value of the material change transaction, in the discretion of the attorney general.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Demographics of the parties' service areas;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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