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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1460 Session of 2025

INTRODUCED BY BOROWSKI, TAKAC, KHAN, BOYD, O'MARA, KRUEGER, CURRY, KAZEEM, DELLOSO, YOUNG, HILL-EVANS, GIRAL, FIEDLER, SANCHEZ, FREEMAN, PROBST, HOHENSTEIN, DONAHUE, SCHLOSSBERG, PROKOPIAK, CEPEDA-FREYTIZ, CERRATO, WAXMAN, DALEY, CIRESI, KENYATTA, FRANKEL, GREEN, WEBSTER, KOSIEROWSKI AND HANBIDGE, MAY 13, 2025

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 9, 2025

AN ACT

Providing for approval from the Department of Health and the Office of Attorney General before certain transactions involving health care entities within this Commonwealth.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

CHAPTER 1

PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Health System Protection Act.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Affected community." A county within this Commonwealth where an existing health care facility is physically located or a county whose residents are regularly served by the existing health care facility.

"Affiliate." A person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

"Against the public interest." A covered transaction that, as determined by the Attorney General, results in any of the following:

(1) A significant reduction in competition or a significant increase in costs for health care payers, purchasers or consumers.

(2) An unfair method of competition in or unfairly affecting health care commerce or an unfair or deceptive act

or practice in or affecting health care commerce.

(3) A significant reduction in the quality of care available within the health care entity's market territory.

(4) A significant reduction in access to or availability of health care services for payers, purchasers or consumers.

(5) A significant reduction in access to care in a rural, low-income or disadvantaged community.

(6) A health care leaseback agreement.

"Attorney General." The Office of Attorney General of the Commonwealth.

"Capital distribution." A payment made, liability incurred or other consideration given by a health care entity to a person for the purchase, acquisition, redemption, repurchase, payment or retirement of capital stock or other equity interest of the health care entity or as a dividend, return of capital or other distribution in respect of the health care entity's capital stock or other equity interest.

"Control," "controlled by" or "under common control with." As follows:

(1) The possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly:

(i) owns more than 10% of a person; or

(ii) controls, holds with the power to vote or holds proxies representing 10% or more of the votes that all

shareholders or members would be entitled to cast in the election of directors or managers.

(2) The presumption under paragraph (1) may be rebutted by a showing that control does not exist in fact. The Attorney General may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect or that another person has control.

"Covered entity." Includes:

(1) A for-profit entity or an affiliate of a for-profit entity that owns, operates or controls or seeks to own, operate or control a health care entity.

(2) An investor or group of investors who primarily engage in the raising or returning of capital and who invest, develop or dispose of specified assets, a private equity company, a private equity fund or a real estate investment trust or affiliate.

"Covered transaction." A transaction or a series of transactions involving at least one health care entity and one covered entity, and includes any of the following:

(1) The sale, transfer, lease or other encumbrance of a material amount of a health care entity's assets, including real property, employment groups, emergency departments or other units.

(2) A change in control of a health care entity.

(3) A capital distribution or similar reduction of a health care entity's equity capital by a material amount or the incursion of an obligation that commits the health care

entity to making a capital distribution or similar reduction of equity by a material amount.

"Department." The Department of Health of the Commonwealth.

"Health care entity." A person that directs, or through an affiliate directs, control of one or more health care facilities.

"Health care facility." The term shall have the same meaning as in section 802.1 of the act of July 1, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Health care leaseback agreement." A transaction whereby a person sells, transfers, leases or otherwise encumbers a material amount of the assets or real property of a health care entity and enters into an agreement with another person to lease back the same assets or real property.

"Health care practitioner." The term shall have the same meaning as in section 103 of the Health Care Facilities Act.

"Material amount." An amount equal to $10,000,000 or more.

"Private equity company." A nonpublicly traded entity that collects capital investments from individuals or entities.

"Private equity fund." An entity that directly, or through an affiliate, acts as a control person and is any of the following:

(1) A person considered an investment company under 15 U.S.C. § 80a-3 (relating to definition of investment company), except for the application of 15 U.S.C. § 80a-3(c)(1) and (7).

(2) A venture capital fund as defined in 17 CFR 275.203(l)-1 (relating to venture capital fund defined).

(3) A sovereign wealth fund.

"Professional licensing board." A professional licensing

board within the Bureau of Professional and Occupational Affairs of the Department of State.

"Real estate investment trust." The term shall have the same meaning as in 26 U.S.C. § 856 (relating to definition of real estate investment trust).

CHAPTER 3

COVERED HEALTH CARE TRANSACTIONS

Section 301. Transactions against public interest.

(a) General rule.--Except as provided under subsection (b), a person may not enter into a covered transaction that is against the public interest.

(b) Exception.--An action prohibited under subsection (a) may be permitted when, as determined by the Attorney General, there is no feasible alternative to prevent a health care entity's closure or a greater loss of health care services in the absence of the covered transaction.

Section 302. Filing of transactions.

(a) Duties of health care entity.--Prior to entering into a binding covered transaction, a health care entity shall complete one of the following:

(1) file a notification in accordance with subsection (b) and observe the waiting period under subsection (c); or

(2) obtain a written determination from the Attorney General that the covered transaction is not against the public interest.

(b) Notice.--Notification of a covered transaction shall be submitted to the Attorney General and the department on a form and in a manner developed by the Attorney General. The notification shall include all of the following, as applicable:

(1) All organic documents, including articles of

incorporation, bylaws, operating agreements and other documents related to governance and ownership of each party.

(2) All complete transaction documents with attachments, including collateral or ancillary agreements involving officers, directors or employees.

(3) All documents signed by the principals, or the principal's agents, that are necessary to determine the proposed transaction's effect, if any, on affiliates, whether nonprofit or for profit.

(4) Any of the following that comprise part or all of the transaction:

(i) Asset contribution agreements.

(ii) Operating agreements.

(iii) Management contracts.

(5) All information necessary to evaluate the effects of the transaction on each component of an integrated delivery system if that transaction involves a hospital, including any changes in contracts between the integrated delivery system entities and related physician groups.

(6) All financial documents of the transaction parties and related entities, if applicable, including audited financial statements, ownership records, business projection data, current capital asset valuation data and any records upon which future earnings, existing asset values and fair market value analysis can be based.

(7) All fairness opinions and independent valuation reports of the assets and liabilities of the parties, prepared on the parties' behalf.

(8) A list of all donor restricted assets, together with origination documents and current fund balances.

(9) All relevant contracts that may affect value, including business contracts and employee contracts, such as buy-out provisions, profit-sharing agreements and severance packages.

(10) All information and representations disclosing related party transactions that are necessary to assess whether the transaction is at arm's length or involves self-dealing.

(11) All documents relating to noncash elements of the transaction, including pertinent valuations of security for loans and stock restrictions.

(12) All tax-related information, including the existence of tax-free debt subject to redemption and disqualified person transactions yielding tax liability.

(13) A list of ongoing litigation, including full court captions, involving the transaction parties or the transaction parties' related entities, that may affect the interests of the parties.

(14) All information in the possession of the transacting parties relative to the perspective of the health care entity's patient base and communities served, or their representatives.

(15) All information, including internal and external reports and studies, bearing on the effect of the proposed transaction on the availability or accessibility of health care in the affected community.

(16) A complete list of all insurance plans under contract and the policies' expiration dates.

(17) Organizational charts of the parties to the transaction, as they exist both preconsummation and

postconsummation of the transaction, detailing the relationship between the principal parties, including any subsidiary.

(18) All additional documents that the Attorney General deems necessary for review purposes.

(c) Waiting period.--Prior to entering into a binding covered transaction, a health care entity shall undergo a 60-day waiting period, which shall begin on the date the Attorney General receives the notification required under subsection (b). Within two business days, the Attorney General shall confirm receipt of the notification with the health care entity that submitted the notification. Upon the expiration of the waiting period provided for under this subsection, and any extension of a waiting period under subsection (d), the covered transaction may proceed unless the Attorney General determines the covered transaction is against the public interest.

(d) Additional information and waiting period extensions.--

(1) The Attorney General may, no later than 30 days prior to the expiration of the waiting period under subsection (c), require the submission of additional information or documentary material from a person who is a party to the proposed covered transaction for which a notification was filed under subsection (b) or from any officer, director, partner, agent or employee of the person.

(2) The Attorney General may, in its discretion, extend the waiting period under subsection (c) for an additional 30 days for a covered transaction after the date on which the Attorney General receives either of the following from a person to whom a request is made under paragraph (1):

(i) all of the additional information and

documentary material requested; or

(ii) if the request is not fully complied with, the information and documentary material submitted and a statement of the reasons for the noncompliance.

(3) Additional extensions of the waiting period beyond what is required under subsection (b) must be granted by a court in accordance with section 305, provided that the request is filed with the court within five days of the expiration of all applicable waiting periods.

Section 303. Public input.

(a) Public hearing.--Prior to the expiration of the respective waiting period under section 302(c), along with any extension granted under section 302(d), the Attorney General may conduct one or more public hearings on the proposed covered transaction.

(b) Accessibility.--

(1) If the Attorney General conducts a public hearing under subsection (a), the public hearing shall be live-streamed on the Attorney General's publicly accessible Internet website.

(2) A video recording of the public hearing shall be posted on the Attorney General's publicly accessible Internet website.

(c) Specific entities.--If a covered transaction involves the acquisition of a health care facility, the Attorney General may hold a public hearing in any county in which the acquired entity is located to hear comments from interested parties. Interested parties shall include employees of the health care entity, legal aid organizations, public officials and health advocacy organizations within a county in which the health care

facility is located. The Attorney General may request testimony at a hearing from State agencies subject to section 306(d).

(d) Notice.--At least 14 days before the date of the public hearing, the Attorney General shall provide written notice of the date, time and place of the public hearing:

(1) On the Attorney General's publicly accessible Internet website.

(2) Through social and broadcast media.

(3) Through publication in one or more newspapers of general circulation in the affected community.

(4) To the governing body of each county and municipality in which the health care entity is located.

(e) Substantive changes to proposal.--If a substantive change in the covered transaction is submitted to the Attorney General after the initial public hearing, the Attorney General may conduct an additional public hearing to hear comments from interested parties with respect to the change.

Section 304. Determination and restraining prohibited transactions.

(a) Determination.--No later than the final date of expiration of the respective waiting period under section 302(c), along with any extension granted under section 302(d), the Attorney General shall determine whether the covered transaction is likely to have an impact that is against the public interest.

(b) Department review.--Prior to making a determination whether a covered transaction is against the public interest, the Attorney General shall consult and request feedback from the department regarding the covered transaction's potential impact on the existing patient base and affected community.

(c) Action.--If the Attorney General, in consultation with the department, determines THERE IS CLEAR AND CONVINCING <-- EVIDENCE that the proposed covered transaction is against the public interest under subsection (a), the Attorney General, on behalf of the Commonwealth, may:

(1) commence an action in a court of competent jurisdiction to enjoin the covered transaction; or

(2) enter into a voluntary agreement with the covered entity and the health care entity, which shall be filed with Commonwealth Court, that imposes conditions or otherwise mitigates the aspects that make the covered transaction against the public interest.

(d) Monitoring.--

(1) A voluntary agreement entered into under subsection (c) shall include an initial monitoring period of not more than five years. The monitoring period may be extended for additional periods of not more than five years at the discretion of the Attorney General.

(2) The Attorney General shall consult with the department prior to setting the length of the initial monitoring period and any extension.

(3) During the monitoring period, the Attorney General and the department shall monitor, evaluate and assess the covered entity and health care entity's compliance with the terms and conditions of the voluntary agreement.

(e) Costs of monitoring.--

(1) The covered entity shall pay for the costs of the Attorney General and the department's monitoring, evaluation and assessment of the covered entity and health care entity's compliance with the terms and conditions of the voluntary

agreement during a monitoring period established under subsection (d).

(2) The Attorney General, in consultation with the department, shall determine the amount of the compliance monitoring cost under this subsection, which shall be paid by the covered entity and placed in an escrow account during the monitoring period.

(f) Licensing.--A health care facility's license may not be revoked, denied, impeded or cited for noncompliance due solely to a filing or review under this chapter.

Section 305. Compliance and power of court.

If a person substantially fails to comply with the notification requirement under section 302(a) or any request for the submission of additional information or documentary material under section 302(b) within the respective waiting period under 302(c), along with any extension granted under section 302(d), the court may, in its discretion, do any or all of the following:

(1) Order compliance.

(2) Extend the waiting period until there has been substantial compliance.

(3) Grant other equitable relief as the court determines necessary or appropriate.

Section 306. Powers and duties of Attorney General.

(a) Rules and regulations.--The Attorney General, in coordination with the department, shall issue rules and promulgate regulations as may be necessary to carry out and enforce this chapter. The department and the Attorney General shall ensure that the rules and regulations of the department and the Attorney General are not in conflict.

(b) Contracts.--

(1) The Attorney General may do any of the following:

(i) Contract with, share information with and consult and receive advice from any Federal agency or Commonwealth agency as the Attorney General deems appropriate to implement this chapter.

(ii) At the Attorney General's sole discretion, contract with experts or consultants to assist in reviewing the proposed covered transaction.

~~(2) The cost of a contract entered into under paragraph (1) must be an amount that is reasonable and necessary to conduct the review and evaluation and in accordance with the following:~~ <--

~~(i) A contract may be on a noncompetitive bid basis.~~

~~(ii) Upon request, the Attorney General shall be paid promptly for all contract costs by the entities seeking approval of the covered transaction.~~

~~(3) The Attorney General shall be entitled to reimbursement from the entities seeking consent for the covered transaction for all actual, reasonable and direct costs incurred in reviewing, evaluating and making a determination under section 304(a), including administrative costs. The entities seeking consent shall promptly pay the Attorney General, upon request, for the costs.~~

(2) THE COST OF A CONTRACT ENTERED INTO UNDER PARAGRAPH (1) MUST BE AN AMOUNT THAT IS REASONABLE AND NECESSARY TO CONDUCT THE REVIEW AND EVALUATION. <--

(3) THE ATTORNEY GENERAL SHALL BE ENTITLED TO REIMBURSEMENT FROM THE ENTITIES SEEKING CONSENT FOR THE COVERED TRANSACTION FOR 50% OF ALL ACTUAL, REASONABLE AND

DIRECT COSTS INCURRED IN REVIEWING, EVALUATING AND MAKING A DETERMINATION UNDER SECTION 304(A), INCLUDING ADMINISTRATIVE COSTS. THE ENTITIES SHALL PAY THE ATTORNEY GENERAL WITHIN 30 DAYS OF THE REQUEST FROM THE ATTORNEY GENERAL. THE ATTORNEY GENERAL MAY PROVIDE ADDITIONAL TIME FOR THE ENTITIES TO PAY COSTS UNDER THIS PARAGRAPH, NOT TO EXCEED 90 ADDITIONAL DAYS. IF THE TRANSACTION INVOLVES A MERGER OR ACQUISITION, THE FOLLOWING SHALL APPLY:

(I) NEITHER THE ATTORNEY GENERAL NOR THE COVERED ENTITY MAY SEEK REIMBURSEMENT FROM THE HEALTH CARE ENTITY FOR ANY COSTS UNDER THIS PARAGRAPH. THE COVERED ENTITY SHALL BE RESPONSIBLE FOR 50% OF THE COSTS. AS PART OF ANY SETTLEMENT, COURT DECREE OR OTHER AGREEMENT, THE COVERED ENTITY MUST AGREE TO NOT RECOUP ANY OF THE COVERED ENTITY'S SHARE OF THE COSTS FROM THE HEALTH CARE ENTITY.

(II) A COVERED ENTITY MAY PETITION A COURT OF COMPETENT JURISDICTION FOR A WAIVER OF ANY OR ALL OF THE COVERED ENTITY'S SHARE OF THE COSTS DUE TO FINANCIAL HARDSHIP OR OTHER FACTORS AS THE COURT DETERMINES FOR GOOD CAUSE SHOWN. THE COURT SHALL DETERMINE WHETHER THE COVERED ENTITY INTENTIONALLY AND KNOWINGLY MISMANAGED ITS FUNDS FOR THE PURPOSE OF BECOMING FINANCIALLY DISTRESSED TO OBTAIN APPROVAL UNDER THIS SUBPARAGRAPH. IF THE COURT FINDS THAT THE COVERED ENTITY INTENTIONALLY AND KNOWINGLY MISMANAGED THE COVERED ENTITY'S FUNDS FOR THE PURPOSE OF BECOMING FINANCIALLY DISTRESSED TO OBTAIN APPROVAL UNDER THIS SUBPARAGRAPH, THE COURT MAY NOT GRANT THE WAIVER PETITION.

(4) Notwithstanding the other provisions of this act, a covered transaction may not be completed unless an agreement

has been executed between the Attorney General and the covered entity, the health care entity or both for the payment of costs in accordance with this subsection.

(c) Compliance.--If a covered entity or health care entity enters into a voluntary agreement with the Commonwealth under section 304(c)(2):

(1) The Attorney General shall monitor, assess and evaluate a covered entity and health care entity to ensure compliance with the terms and conditions of the voluntary agreement for the duration of the monitoring period established under section 304(d).

(2) The Attorney General may request documents and other information from a covered entity or a health care entity, or both, to monitor compliance with the terms of the voluntary agreement under section 304(c). Upon receiving a request from the department, a covered entity or health care entity shall respond to the request within 30 days.

(3) If the Attorney General determines that the health care entity or covered entity has failed to comply with terms of the voluntary agreement, the Attorney General may seek immediate relief in Commonwealth Court to enforce the conditions of the voluntary agreement, and Commonwealth Court may impose any penalties authorized by law or the terms of the voluntary agreement.

(d) Agency cooperation.--

(1) The department, the Department of Aging, the Department of Human Services and the Insurance Department shall assist the Attorney General in reviewing the proposed agreement and transaction, if requested, and shall comply with any request for testimony or information as may be

necessary and appropriate for the Attorney General to review a proposed covered transaction.

(2) The Attorney General shall comply with any request for information from the Insurance Department as may be necessary and appropriate for the Insurance Department to concurrently review a proposed transaction under Article XIV of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. Documents provided by the Attorney General to the Insurance Department under this paragraph shall be treated as confidential and are exempt from public access under the act of February 14, 2008 (P.L. 6, No.3), known as the Right-to-Know Law.

(3) The Attorney General shall comply with any request for information from the department as may be necessary and appropriate to concurrently review a proposed transaction under the act of July 19, 1979 (P.L.140, No.48), known as the Health Care Facilities Act. Documents provided by the Attorney General to the department under this paragraph shall be treated as confidential and are exempt from public access under the Right-to-Know Law.

Section 307. Powers and duties of department.

(a) Rules and regulations.--The department, in coordination with the Attorney General, shall issues rules and promulgate regulations as may be necessary to carry out and enforce this chapter. The department and the Attorney General shall ensure that the rules and regulations of the department and the Attorney General are not in conflict.

(b) Compliance.--If a health care facility or covered entity enters into a voluntary agreement with the Commonwealth under section 304(c):

(1) The department shall monitor, assess and evaluate a health care facility and covered entity to ensure compliance with the terms and conditions of the voluntary agreement. If the department determines the health care facility or covered entity has failed to comply with terms of the voluntary agreement, the department shall immediately notify the Attorney General of its findings.

(2) The department may request documents and other information from a covered entity, a health care facility or both to monitor compliance with the terms of the voluntary agreement under section 304(c). Upon receiving a request from the department, a covered entity or health care facility shall respond to the request within 30 days.

(3) The department shall be reimbursed from an escrow account established under section 304(e) for costs related to the ongoing monitoring, assessment and evaluation of a health care facility and covered entity's compliance with the terms and conditions of the voluntary agreement during the monitoring period.

Section 308. Confidential treatment.

(a) Confidentiality.--All information, documents, materials and copies thereof in the possession or control of the Attorney General or the department that are produced for, obtained by or disclosed to the Attorney General or the department in the course of a covered entity or health care entity complying with the requirements of section 302(b), 306(c) or (d) or 307(b) shall be privileged and given confidential treatment and shall not be:

(1) Subject to discovery or admissible in evidence in a private civil action.

(2) Subject to subpoena.

(3) Subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(4) Made public by the Attorney General, the department or any other person, except to regulatory or law enforcement officials of this Commonwealth or other jurisdictions or experts or consultants under contract with the Attorney General under section 306(b), without the prior written consent of the health care entity or covered entity to which it pertains, unless the Attorney General, after giving the health entity or covered entity that would be affected notice and opportunity to be heard, determines that the interest of the public is served by the publication, in which event it may publish all or any part in such manner as it may deem appropriate.

(b) Testifying in a civil action.--The Attorney General, the department, any other Commonwealth agency or any individual or person, who receives documents, materials or other information, while acting under the authority of the Attorney General or the department, or with whom the documents, materials or other information are shared under this chapter, shall not be permitted or required to testify in any private civil action concerning any confidential documents, materials or information covered under this section.

CHAPTER 10

MISCELLANEOUS PROVISIONS

Section 1001. Construction.

This act shall not be construed to:

(1) Narrow, abrogate or otherwise alter the authority of the Attorney General to maintain competitive markets and

prosecute or enforce violations of antitrust and unfair trade practices laws.

(2) Narrow, abrogate or otherwise alter the authority of the department to oversee and approve or disapprove the change of ownership of or regulate a health care facility under the act of July 1, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

(3) Narrow, abrogate or otherwise alter the authority of a professional licensing board to issue, suspend or revoke a health care practitioner's license or regulate the practice of the health arts in this Commonwealth.

(4) Prohibit a Federal agency, Commonwealth agency or other state agency from regulating a covered transaction or joining as party in an action seeking to enjoin a covered transaction, including the Insurance Department's jurisdiction to review an exposed transaction under Article XIV of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

Section 1002. Effective date.

This act shall take effect in 60 days.