



Senate

General Assembly

File No. 419

February Session, 2014

Substitute Senate Bill No. 35

Senate, April 8, 2014

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NOTICE OF ACQUISITIONS, JOINT VENTURES AND AFFILIATIONS OF GROUP MEDICAL PRACTICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
2 section:

3 (1) "Captive professional entity" means a professional corporation,
4 limited liability company or other entity formed to render professional
5 services in which a beneficial owner is a physician employed by or
6 otherwise designated by a hospital or hospital system;

7 (2) "Hospital" has the same meaning as provided in section 19a-490
8 of the general statutes;

9 (3) "Hospital system" means: (A) A parent corporation of one or
10 more hospitals and any entity affiliated with such parent corporation
11 through ownership, governance, membership or other means, or (B) a
12 hospital and any entity affiliated with such hospital through

13 ownership, governance, membership or other means;

14 (4) "Health care provider" has the same meaning as provided in
15 section 19a-17b of the general statutes;

16 (5) "Medical foundation" means a medical foundation formed under
17 chapter 594b of the general statutes;

18 (6) "Physician" has the same meaning as provided in section 20-13a
19 of the general statutes;

20 (7) "Person" has the same meaning as provided in section 35-25 of
21 the general statutes;

22 (8) "Professional corporation" has the same meaning as provided in
23 section 33-182a of the general statutes;

24 (9) "Group practice" means two or more physicians, legally
25 organized in a partnership, professional corporation, limited liability
26 company formed to render professional services, medical foundation,
27 not-for-profit corporation, faculty practice plan or other similar entity
28 (A) in which each physician who is a member of the group provides
29 substantially the full range of services that the physician routinely
30 provides, including, but not limited to, medical care, consultation,
31 diagnosis or treatment, through the joint use of shared office space,
32 facilities, equipment or personnel; (B) for which substantially all of the
33 services of the physicians who are members of the group are provided
34 through the group and are billed in the name of the group practice and
35 amounts so received are treated as receipts of the group; or (C) in
36 which the overhead expenses of, and the income from, the group are
37 distributed in accordance with methods previously determined by
38 members of the group. An entity that otherwise meets the definition of
39 group practice under this section shall be considered a group practice
40 although its shareholders, partners or owners of the group practice
41 include single-physician professional corporations, limited liability
42 companies formed to render professional services or other entities in
43 which beneficial owners are individual physicians; and

44 (10) "Primary service area" means the smallest number of zip codes
45 from which the group practice draws at least seventy-five per cent of
46 its patients.

47 (b) At the same time that any person conducting business in this
48 state that files merger, acquisition or any other information regarding
49 market concentration with the Federal Trade Commission or the
50 United States Department of Justice, in compliance with the Hart-
51 Scott-Rodino Antitrust Improvements Act, 15 USC 18a, where a
52 hospital, hospital system or other health care provider is a party to the
53 merger or acquisition that is the subject of such information, such
54 person shall provide written notification to the Attorney General of
55 such filing and, upon the request of the Attorney General, provide a
56 copy of such merger, acquisition or other information.

57 (c) Except for acquisitions described in subdivision (4) of this
58 subsection, not less than ninety days prior to the effective date of any
59 transaction that results in a material change to the business or
60 corporate structure of a group practice, the parties to the transaction
61 shall submit written notice to the Attorney General of such material
62 change. For an acquisition of an insolvent group practice, as described
63 in subdivision (4) of this subsection, the parties to the transaction shall
64 submit written notice to the Attorney General not less than thirty days
65 prior to the effective date of the transaction. For purposes of this
66 subsection, a material change to the business or corporate structure of
67 a group practice includes: (1) The merger, consolidation or other
68 affiliation of a group practice with (A) another group practice that
69 results in a group practice comprised of eight or more physicians, or
70 (B) a hospital, hospital system, captive professional entity, medical
71 foundation or other entity organized or controlled by such hospital or
72 hospital system; (2) the acquisition of all or substantially all of (A) the
73 properties and assets of a group practice, or (B) the capital stock,
74 membership interests or other equity interests of a group practice by (i)
75 another group practice that results in a group practice comprised of
76 eight or more physicians, or (ii) a hospital, hospital system, captive
77 professional entity, medical foundation or other entity organized or

78 controlled by such hospital or hospital system; (3) the employment of
79 all or substantially all of the physicians of a group practice by (A)
80 another group practice that results in a group practice comprised of
81 eight or more physicians, or (B) a hospital, hospital system, captive
82 professional entity, medical foundation or other entity organized by,
83 controlled by or otherwise affiliated with such hospital or hospital
84 system; (4) the acquisition of one or more insolvent group practices by
85 (A) another group practice that results in a group practice comprised
86 of eight or more physicians, or (B) a hospital, hospital system, captive
87 professional entity, medical foundation or other entity organized by,
88 controlled by or otherwise affiliated with such hospital or hospital
89 system; and (5) the formation of a partnership, joint venture, common
90 entity, accountable care organization or parent corporation for the
91 purpose of contracting or providing services on behalf of one or more
92 group practices.

93 (d) The written notice required under subsection (c) of this section
94 shall identify each party to the transaction and describe the material
95 change to the business or corporate structure of the group practice,
96 including: (1) A description of the nature of the proposed relationship
97 among the parties to the proposed transaction; (2) the names and
98 specialties of each physician that is a member of the group practice
99 that is the subject of the proposed transaction and who will practice
100 medicine with the resulting group practice, hospital, hospital system,
101 captive professional entity, medical foundation or other entity
102 organized by, controlled by, or otherwise affiliated with such hospital
103 or hospital system following the effective date of the transaction; (3)
104 the names of the business entities that are to provide services following
105 the effective date of the transaction; (4) the address for each location
106 where such services are to be provided; (5) a description of the services
107 to be provided at each such location; and (6) the primary service area
108 to be served by each such location.

109 (e) Written information submitted to the Attorney General pursuant
110 to subsections (b) to (d), inclusive, of this section shall be maintained
111 and used by the Attorney General in the same manner as provided in

112 section 35-42 of the general statutes.

113 (f) Not later than December 31, 2014, and annually thereafter, each
 114 hospital and hospital system shall file with the Attorney General and
 115 the Commissioner of Public Health a written report describing the
 116 activities of the group practices owned or affiliated with such hospital
 117 or hospital system. Such report shall include, for each such group
 118 practice: (1) A description of the nature of the relationship between the
 119 hospital or hospital system and the group practice; (2) the names and
 120 specialties of each physician practicing medicine with the group
 121 practice; (3) the names of the business entities that provide services as
 122 part of the group practice and the address for each location where such
 123 services are provided; (4) a description of the services provided at each
 124 such location; and (5) the primary service area served by each such
 125 location.

126 (g) Not later than December 31, 2014, and annually thereafter, each
 127 group practice comprised of thirty or more physicians that is not the
 128 subject of a report filed under subsection (f) of this section shall file
 129 with the Attorney General and the Commissioner of Public Health a
 130 written report concerning the group practice. Such report shall include,
 131 for each such group practice: (1) The names and specialties of each
 132 physician practicing medicine with the group practice; (2) the names of
 133 the business entities that provide services as part of the group practice
 134 and the address for each location where such services are provided; (3)
 135 a description of the services provided at each such location; and (4) the
 136 primary service area served by each such location.

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|---|-----------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2014 | New section |

PH Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill has no fiscal impact on the Office of the Attorney General because it does not increase or expand the agency's current antitrust authority.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 35*****AN ACT CONCERNING NOTICE OF ACQUISITIONS, JOINT VENTURES AND AFFILIATIONS OF GROUP MEDICAL PRACTICES.*****SUMMARY:**

This bill requires parties to certain transactions that materially change the business or corporate structure of a medical group practice to notify the attorney general (AG). In general, a material change is defined as any merger, consolidation, affiliation, stock acquisition, formation of partnership, or change in corporate structure involving a hospital or similar entity or that results in a group practice of eight or more physicians.

It also requires parties to transactions involving a hospital, hospital group, or health care provider that are subject to federal antitrust review to (1) notify the Connecticut AG and (2) at his request, provide a copy of the information filed with the federal agencies.

Under the bill, the AG must maintain and use the information submitted to him, in both cases, as part of his antitrust investigation and enforcement capability.

The bill also requires hospitals and hospital systems with affiliated group practices, and unaffiliated group practices of 30 or more physicians, to report annually to the AG.

EFFECTIVE DATE: October 1, 2014

NOTIFICATION REQUIREMENTS***Transactions Involving Group Practices***

The bill requires parties engaging in any transaction resulting in a material change to a group practice to notify the AG in writing at least

90 days prior to the transaction's effective date (or 30 days prior for transactions involving an insolvent group practice).

A group practice consists of two or more physicians organized in a partnership, professional corporation, limited liability company, medical foundation, not-for-profit corporation, faculty practice plan, or other similar entity in which (1) each physician provides substantially the full range of services they normally provide, (2) most of the services of member physicians are provided and billed in the name of the group practice, or (3) in which the overhead expenses and income of the group are distributed by a method determined by group members.

A group practice's business or corporate structure is materially changed if it engages in any of the following transactions with (1) another group practice (including an insolvent practice) resulting in a group practice of eight or more physicians, or (2) a hospital, hospital system, captive professional entity, medical foundation, or other entity organized or controlled by the hospital or hospital system:

1. a merger, consolidation, or affiliation;
2. a substantial stock (including capital stock), membership or equity interest, property, or asset acquisition;
3. the employment of all or substantially all of the physicians of a group practice or by a hospital or related entity; and
4. the formation of a partnership, joint venture, common entity, accountable care organization, or parent corporation for the purposes of contracting or providing services on behalf of one or more group practices.

The notification must identify each party and describe the material change, including:

1. a description of the nature of the proposed relationship among the parties;

2. the name and specialty of each physician who is a member of the group practice that is the subject of the transaction and who will practice with the resulting group practice, hospital system, or other medical entity, or otherwise be affiliated after the transaction;
3. the names of the business entities that are to provide services following the effective date of the transaction, including the address for each location where the services are to be provided;
4. a description of the services to be provided at each location; and
5. the primary service area to be served by each location.

Transactions Involving Hospitals

Under the bill, if at least one party involved in a merger, acquisition, or other transaction governed by the Hart-Scott-Rodino Antitrust Improvements Act (15 USC §18a, known as the HSR Act) is a hospital or health care provider, all parties must submit to the Connecticut AG written notification of the Federal Trade Commission (FTC) and Department of Justice (DoJ) filing. Upon request, the parties involved must also provide to the AG a copy of the filing.

ANNUAL REPORTING FOR HOSPITALS AND SOME GROUP PRACTICES

By December 31, 2014, and annually thereafter, the bill requires each hospital or hospital system with an affiliated group practice and unaffiliated group practices of 30 or more physicians to file a written report with the AG and the public health commissioner. The report must include:

1. the name and specialty of each physician practicing within the group practice;
2. the names of the business entities that provide services as part of the group practice, including the addresses for each location where services are provided;

3. a description of the services provided at each location, and
4. the primary area to be served by each location.

In addition, hospitals and hospital systems with an affiliated group practice must also include a description of the nature of the relationship between the hospital or hospital system and the group practice.

BACKGROUND

HSR Act Thresholds

The HSR Act requires parties in transactions exceeding specific amounts to notify and file certain information with the FTC and DoJ. Generally, a report is required under HSR if, as a result of the transaction, the acquiring person or entity holds: (1) over \$303.4 million worth of the stock and assets of the acquired person or entity or (2) between \$75.9 million and \$303.4 million worth of stock and assets of the acquired person or entity and meets the following criteria:

1. one person or entity has sales or assets of at least \$151.7 million and
2. the other person or entity has sales or assets of at least \$15.2 million.

By law, the FTC updates the threshold requirements once a year in response to changes in the gross national product. Thresholds listed above are those effective February 24, 2014.

Connecticut Attorney General Antitrust Powers

Under the Connecticut Antitrust Act, the AG may investigate a potential monopoly, restraint of trade, or other action intended to reduce competition. In the course of an investigation, the AG may issue subpoenas and other demands for related documents. Violations of the antitrust act carry civil penalties of up to \$1 million.

Related Bills

HB 5345, reported favorably by the Labor Committee, allows health care providers to form a health collaborative for the purpose of negotiating with insurance companies. Depending on its organizational structure, a collaborative of eight or more physicians may meet some of the reporting criteria described above.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 25 Nay 1 (03/21/2014)