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## OLR Bill Analysis

### HB 5316

#### ***AN ACT CONCERNING THE OFFICE OF HEALTH STRATEGY'S RECOMMENDATIONS REGARDING THE CERTIFICATE OF NEED PROGRAM.***

#### **SUMMARY**

By law, the Office of Health Strategy's (OHS) Health Systems Planning Unit (HSPU) administers the state's Certificate of Need (CON) program for health care entities. Under this program, health care entities must generally receive CON approval when establishing new facilities or services, changing ownership, acquiring certain equipment, or terminating certain services.

This bill modifies CON program requirements for physician group practices by doing the following:

1. expanding the statutory definitions of "large group practice" and "group practice" to (a) include, among other things, those owned or controlled by public companies or entities and (b) count physician members who work under a professional service agreement (§ 1 & 2);
2. starting January 15, 2025, lowering the threshold, from group practices of 30 or more physicians, to eight or more physicians, that triggers an annual requirement under existing law to report on the group practice to OHS and the attorney general (AG) (§ 3);
3. eliminating current law's exemption from CON requirements for ownership transfers of large group practices to a physician or certain other group practices (§ 4);
4. temporarily requiring HSPU, until December 31, 2025, to automatically grant a CON for ownership transfers of large group practices to a physician or certain other group practices (§

4); and

5. removing a provision in current law providing a presumption in favor of approving a CON application for an ownership transfer of a large group practice when the offer to buy the practice was made in response to a request for proposal or similar voluntary offer for sale (§ 5).

The bill also requires CON approval for the acquisition of a proton radiotherapy machine, unless it is a replacement for a machine previously acquired through a CON (§ 4).

Lastly, the bill makes various technical changes (§§ 6-8).

EFFECTIVE DATE: October 1, 2024, except the provision changing the statutory definition of “large group practice” takes effect upon passage.

## **§§ 1 & 2 — DEFINITION OF GROUP PRACTICE AND LARGE GROUP PRACTICE**

The bill expands the statutory definitions of “group practice” (two or more physicians) and “large group practice” (eight or more physicians) to include those organized in:

1. a group owned or controlled by a public company or entity (e.g., nonprofits, business trusts, and estates) or
2. an entity in which both the payer and provider share the financial risk of managed care or the provider serves as both a payer and provider (i.e., a payer offering health care, a provider offering health insurance, or joint ventures between payers and providers).

Under current law, a group practice and large group practice also include those organized in a partnership, professional corporation, limited liability company (LLC), medical foundation, nonprofit corporation, faculty practice plan, or other similar entity.

As under current law, a group practice or large group practice is one

in which:

1. member physicians provide and bill substantially all of their services in the practice's name and payments are treated as group receipts;
2. the practice's overhead expenses and income are distributed by a method the practice members determine; or
3. each physician in the practice provides substantially the full range of services they normally provide through the joint use of office space, facilities, equipment, or personnel.

For the latter, the bill specifies that this includes physicians who work under a professional service agreement.

### **§ 3 — LARGE GROUP PRACTICE ANNUAL REPORTING REQUIREMENT**

Current law requires certain group practices to file an annual report with the AG and OHS on their practices that includes the following:

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 service area served by each location.

Starting January 15, 2025, the bill applies the annual reporting requirement to group practices with eight or more physicians (including those working under a professional service agreement), instead of those with 30 or more physicians, as under current law.

### **§ 4 — LARGE GROUP PRACTICE OWNERSHIP TRANSFERS**

The bill requires CON approval for ownership transfers of large group practices to any person (i.e., individual, partnership, corporation,

LLC, association, government subdivision, agency, or public or private organization). Current law exempts ownership transfers to (1) a physician or (2) another group practice that is not an employee or affiliate of a hospital, medical foundation, insurance company, or other entity.

However, the bill temporarily requires HSPU, until December 31, 2025, to automatically issue a CON to any large group practice that submits a request to transfer its ownership to a physician or group practice as described above. The unit must do this regardless of existing CON laws or the bill's requirements.

## **BACKGROUND**

### ***Related Bills***

sSB 9, favorably reported by the Public Health Committee, makes various changes to the CON program, such as adding to the types of transactions requiring CON approval and modifying criteria HSPU must use when reviewing CON applications.

SB 440, favorably reported by the Public Health Committee, makes various changes to the CON program, such as modifying the types of transactions that require, and are exempt from, CON approval; transferring responsibility, from HSPU to the attorney general, for conducting cost and market impact reviews of certain hospital ownership transfers; and shortening the deadlines for certain CON processes.

## **COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 25    Nay 12    (03/20/2024)