Assembly Bill No. 3129

Passed the Assembly August 31, 2024

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Chief Clerk of the Assembly

Passed the Senate August 31, 2024

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Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2024, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Section 127507 of, and to add Division 1.7 (commencing with Section 1190) to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 3129, Wood. Health care system consolidation.

Existing law requires a nonprofit corporation that operates or controls a health facility or other facility that provides similar health care to provide written notice to, and to obtain the written consent of, the Attorney General prior to entering into any agreement or transaction to sell, transfer, lease, exchange, option, convey, or otherwise dispose of the asset, or to transfer control, responsibility, or governance of the asset or operation, to a for-profit corporation or entity, to a mutual benefit corporation or entity, or to a nonprofit corporation, as specified.

This bill would require a private equity group or a hedge fund, as defined, to provide written notice to, and obtain the written consent of, the Attorney General before a transaction between the private equity group or hedge fund and a health care facility, provider, or provider group, as those terms are defined, and any of those entities that directly or indirectly control, are controlled by, are under common control of, or are otherwise affiliated with a payor, except as specified. The bill would require the notice to be submitted at the same time that any other state or federal agency is notified pursuant to state or federal law, and otherwise at least 90 days before the transaction. The bill would authorize the Attorney General to extend that 90-day period under certain circumstances. The bill would additionally require a private equity group or hedge fund to provide advance written notice to the Attorney General before a transaction between a private equity group or hedge fund and a nonphysician provider or a provider, with specified gross annual revenue.

The bill would authorize the Attorney General to give the private equity group or hedge fund a written waiver or the notice and consent requirements if specified conditions apply, including, but not limited to, that the party makes a written waiver request, the

health care facility's, provider group's, or provider's operating costs have exceeded its operating revenue in the relevant market for 3 or more years and the party cannot meet its debts, and the transaction will ensure continued health care access in the relevant markets. The bill would require the Attorney General to grant or deny the waiver within 45 days, as prescribed.

The bill would authorize the Attorney General to consent to, give conditional consent to, or not consent to a transaction between a private equity group or hedge fund and a health care facility, provider group, or provider if the transaction may have a substantial likelihood of anticompetitive effects or may create a significant effect on the access or availability of health care services to the affected community, applying a public interest standard, as defined. The bill would authorize the private equity group or hedge fund to elect to participate in an evidentiary hearing before an administrative law judge assigned to the Office of Administrative Hearings, and would set forth the requirements for that hearing. The bill would require the administrative law judge to issue a statement of decision after the close of the hearing, and would require the Attorney General to issue a final determination accepting or rejecting the statement of decision, as specified. The bill would authorize the private equity group or hedge fund to seek subsequent judicial review, as specified, of the Attorney General's final determination if the Attorney General does not consent or gives conditional consent to a transaction.

The bill would prohibit a private equity group or hedge fund involved in any manner with a physician, psychiatric, or dental practice doing business in this state from interfering with the professional judgment of physicians, psychiatrists, or dentists in making health care decisions, among other things. The bill would authorize the Attorney General to adopt regulations and contract with state agencies, experts, or consultants to implement its requirements, as specified.

Existing law requires a health care entity to provide the Office of Health Care Affordability with written notice of agreements and transactions that would sell, transfer, lease, exchange, option, encumber, convey, or otherwise dispose of a material amount of assets, or that would transfer control, responsibility, or governance of a material amount of the assets or operations to one or more entities, except as specified.

This bill would exempt transactions involving private equity groups or hedge funds that are subject to Attorney General review pursuant to the bill from this notice requirement.

The people of the State of California do enact as follows:

SECTION 1. Division 1.7 (commencing with Section 1190) is added to the Health and Safety Code, to read:

DIVISION 1.7. HEALTH CARE SYSTEM CONSOLIDATION

1190. (a) For purposes of this division, the following definitions shall apply:

(1) "Change of control" means an arrangement in which a private equity group or hedge fund establishes a change in governance or sharing of control over health care services provided by a health care facility, provider group, or provider doing business in this state, or in which a private equity group or hedge fund otherwise assumes direct or indirect control over the operations of a health care facility, provider group, or provider in whole or in part doing business in this state, as consistent with subdivision (a) of Section 5914 of, and subdivision (a) of Section 5920 of, the Corporations Code. For purposes of this division, an "arrangement" shall include any agreement, association, partnership, joint venture, transfer, or other arrangement that results in a change of governance or control. A change of control does not exist if a health facility only extends an offer of employment to, or hires, a provider. A transfer includes, but is not limited to, an arrangement, written or oral, that alters voting control of, responsibility for, or control of the governing body of the health care facility, provider group, or provider.

(2) (A) "Health care facility" means a place, or building where services are provided by nondental, licensed health professionals, including, but not limited to, all of the following:

(i) A health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2, that is not a hospital.

(ii) A clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(iii) An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(iv) An ambulatory surgical center or accredited outpatient setting.

(v) A clinical laboratory, as described in Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(vi) An imaging facility that employs or contracts with persons that are described in the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104), the Radiologic Technologists Act (Article 5 (commencing with Section 106955) of Chapter 4 of Part 1 of Division 104), or Article 6 (commencing with Section 107150) of Chapter 4 of Part 1 of Division 104.

(B) The licensing, tax, or ownership status of a health care facility is immaterial to the definition of "health care facility."

(3) (A) "Hedge fund" means a pool of funds managed by investors for the purpose of earning a return on those funds, regardless of the strategies used to manage the funds. Hedge funds include, but are not limited to, a pool of funds managed or controlled by private limited partnerships.

(B) "Hedge fund" does not include:

(i) Natural persons or other entities that contribute, or promise to contribute, funds to the hedge fund, but otherwise do not participate in the management of the hedge fund or the fund's assets, or in any change in control of the hedge fund or the fund's assets.

(ii) Entities that solely provide or manage debt financing secured in whole or in part by the assets of a health care facility, including, but not limited to, banks and credit unions, commercial real estate lenders, bond underwriters, and trustees.

(4) "Hospital" means a general acute care hospital, acute psychiatric hospital, or special hospital, as those terms are defined in subdivision (a), (b), or (f) of Section 1250, respectively.

(5) "Licensed health professional" includes all of the following:

(A) Physicians and surgeons.

(B) Dentists.

(C) Optometrists.

(D) Pharmacists.

(E) Nonphysician mental health professionals, including, but not limited to, psychologists, licensed clinical social workers, and marriage, family, and child counselors.

(F) Physician assistants or advanced practice registered nurses, including, but not limited to, nurse practitioners, certified nurse-midwives, nurse anesthetists, and clinical nurse specialists.

(6) "Payor" means a private or public entity that is any of the following:

(A) A health insurer licensed to provide health insurance, as defined in Section 106 of the Insurance Code.

(B) A health care service plan or a specialized mental health care service plan, as defined in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) or a Medi-Cal managed care plan contracted with the State Department of Health Care Services to provide full-scope benefits to a Medi-Cal enrollee pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591) of, Part 3 of Division 9 of the Welfare and Institutions Code.

(C) A publicly funded health care program, including, but not limited to, Medi-Cal and Medicare.

(D) A third-party administrator.

(E) Any other public or private entity, other than an individual, that arranges, pays for, or reimburses for any part of the cost for the provision of health care.

(F) An organization or business entity that purchases health care services, including, but not limited to, trust funds, trade associations, and private and public employers that provide health care benefits to their employees, members, and dependents.

(7) "Nonphysician provider" means a group of two or more health professionals that are licensed as defined under Division 2 (commencing with Section 500) of the Business and Professions Code, except for a provider or a provider group.

(8) (A) "Private equity group" means an investor or group of investors who primarily engage in the raising or returning of capital and who invests, develops, or disposes of specified assets.

(B) "Private equity group" does not include natural persons or other entities that contribute or promise to contribute funds to the private equity group, but otherwise do not participate in the management of the private equity group or the group's assets, or in any change in control of the private equity group or the group's assets.

(9) "Provider" means a group of two to nine licensed health professionals acting within their scope of practice, including a lawfully organized group of two to nine physicians that provides, delivers, or furnishes health care services, except for a provider group.

(10) "Provider group" means a group of 10 or more licensed health professionals acting within the scope of their practice, or a group of two to nine licensed health professionals acting within the scope of their practice that generated gross annual revenue of twenty-five million dollars ($25,000,000) or more. A provider group may include any combination of licensed health professionals, but does not include a medical group practice, a professional medical corporation, or a medical partnership that provides, delivers, or furnishes health care services and is composed of nine or fewer physicians that generated gross annual revenue of less than twenty-five million dollars ($25,000,000). A provider group also does not include any combination of licensed health professionals if the primary purpose of the group is to deliver dermatology services.

(11) (A) "Transaction" means the direct or indirect acquisition in any manner, including, but not limited to, lease, transfer, exchange, option, receipt of a conveyance, creation of a joint venture, or any other manner of purchase, by a private equity group or hedge fund of a material amount of the assets or operations, or a change of control, of a health care facility, provider group, or provider doing business in this state.

(B) A transaction involves a "material amount of the assets or operations" if either the transaction affects more than 15 percent of the market value or ownership shares of the health care facility, provider group, or provider. A transaction that vests rights significant enough to constitute a change in control, including, but not limited to, supermajority rights, veto rights, exclusivity provisions, and similar provisions, involves a "material amount of the assets or operations" even if less than 15 percent of the market value or ownership shares of the health care facility, provider group, or provider is affected.

(b) These definitions do not apply to either of the following:

(1) Transactions entered into prior to January 1, 2025, including subsequent renewals, as long as those transactions do not involve a material change in the corporate relationship between the private

equity group or hedge fund and a health care facility, provider group, or provider on or after January 1, 2025.

(2) The pledge of assets solely to secure a debt obligation, including, but not limited to, security agreements, deeds of trust, indentures, financing statements, and liens.

1190.10. (a) Except as provided in subdivision (h), a private equity group or hedge fund shall provide written notice to, and obtain the written consent of, the Attorney General before a transaction between the private equity group or hedge fund and any of the following:

(1) A health care facility, except for hospitals.

(2) A provider group.

(3) A provider, if the private equity group or hedge fund has been involved, directly or indirectly, in a transaction involving a health care facility, provider group, provider, or related health care services within the past seven years.

(4) Any health care facility, provider group, or provider as described in paragraph (3), that directly or indirectly controls, is controlled by, is under common control of, or is otherwise affiliated with a payor, if the private equity group or hedge fund has been involved, directly or indirectly, in a transaction involving a health care facility, provider group, or provider.

(5) A health district may refer a transfer by the district, as defined in Section 32121, of a health care facility, provider group, or provider to a private equity group or hedge fund to the Attorney General.

(b) The notice shall be submitted at the same time that any other state or federal agency is notified pursuant to state or federal law, and otherwise shall be provided at least 90 days before the transaction, and shall contain information sufficient to evaluate the nature of the transaction and information sufficient for the Attorney General to determine that the criteria set forth in subdivisions (a) and (b) of Section 1190.20 have been met or that a waiver may be granted pursuant to subdivision (h).

(c) The Attorney General may extend this 90-day period for one additional 45-day period, in addition to any time for which the period is stayed, if any of the following conditions apply:

(1) The extension is necessary to obtain additional information.

(2) The proposed transaction is substantially modified after the original notice was provided to the Attorney General.

(3) The proposed transaction involves a multifacility or multiprovider health system serving multiple communities, rather than a single facility or entity.

(d) The Attorney General may extend any time period set forth in subdivision (b) or (c) by 14 days if the Attorney General decides to hold a public meeting under subdivision (b) of Section 1190.30.

(e) Upon the expiration of the time periods set forth in subdivision (b), (c), or (d), as applicable, and without the issuance of a written determination from the Attorney General, the private equity group or hedge fund may close the transaction. If the parties to the transaction elect to proceed under subdivision (c) of Section 1190.30, the transaction shall not be closed until the issuance of a written determination from the Attorney General and until any litigation is resolved.

(f) A private equity group or hedge fund shall provide advance written notice to the Attorney General before a transaction between a private equity group or hedge fund and a nonphysician provider or between a private equity group or hedge fund and a provider, if the nonphysician provider has gross annual revenue of more than four million dollars ($4,000,000) or the provider has gross annual revenue between four million dollars ($4,000,000) and twenty-five million dollars ($25,000,000) and is not required to provide written notice under subdivision (a). Transactions between a private equity group or hedge fund and a nonphysician provider, or transactions between a private equity group or hedge fund and a provider, that are required to be notified under this subdivision shall not be subject to consent by the Attorney General.

(g) The Attorney General may stay any time period in this section, upon notice to the parties to the transaction, pending any review by a state or federal agency that has also been notified as required by federal or state law.

(h) (1) Written notice to, and the consent of, the Attorney General shall not be required under subdivision (a), if the Attorney General has given the private equity group or hedge fund a written waiver of this section as to the proposed transaction. The Attorney General may grant a waiver if all of the following conditions apply:

(A) The party makes a waiver request by submitting, in writing, a description of the proposed transaction, a copy of all documents that effectuate any part of the proposed acquisition or change of control, an explanation of why the waiver should be granted, and

any other information the Attorney General determines is required to evaluate the waiver request.

(B) The health care facility's, provider group's, or provider's operating costs have exceeded its operating revenue in the relevant market for three or more years and the party cannot meet its debts as they come due.

(C) The health care facility, provider group, or provider is at grave risk of immediate business failure and can demonstrate a substantial likelihood that it will have to file for bankruptcy under Chapter 11 of the Bankruptcy Act (11 U.S.C. Sec. 1101 et seq.) absent the waiver.

(D) The health care facility, provider group, or provider provides substantial evidence that it is at risk of liquidation under Chapter 7 of the Bankruptcy Act (11 U.S.C. Sec. 701 et seq.).

(E) The transaction will ensure continued health care access in the relevant markets.

(F) The health care facility, provider group, or provider has made commercially reasonable best efforts in good faith to elicit reasonable alternative offers that would keep its assets in the relevant markets and that would pose a less severe danger to competition and access to care than the proposed transaction.

(2) Any consideration of a party's finances under this subdivision may include consideration of the finances of any affiliates that are under common control or are under the control of the party.

(3) The Attorney General shall grant or deny the waiver request within 45 days after all information needed to evaluate the waiver request has been submitted to the Attorney General. In determining whether to grant a waiver, the Attorney General shall consider whether any of the decisional factors set forth in Section 1190.20 are applicable to the proposed transaction. A waiver may be denied if any of these decisional factors require full Attorney General review of the proposed transaction. The Attorney General may condition the grant of a waiver in a manner that eliminates the need for full Attorney General review.

(4) Written notice to, and the consent of, the Attorney General shall not be required under subdivision (a) for a transaction or agreement involving a health care service plan, including a specialized health care service plan, that is subject to review by the Director of the Department of Managed Health Care for cost

impact or market consolidation under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2).

(5) Written notice to, and the consent of, the Attorney General shall not be required under subdivision (a) for transactions involving health insurers that are subject to review by the Insurance Commissioner for cost impact or market consolidation under Article 16 (commencing with Section 1080) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(6) Written notice to, and the consent of, the Attorney General shall not be required under subdivision (a) for transactions in which a county is purchasing, acquiring, or taking control, responsibility, or governance of a health care facility, provider group, or provider from a private equity group or hedge fund to ensure continued access to health care services in that county.

(7) Written notice to, and the consent of, the Attorney General shall not be required under subdivision (a) for a transfer by a health district, as defined in Section 32121, of a health care facility, provider group, or provider to a private equity group or hedge fund.

(A) A health district shall request and consider an advisory opinion by the Attorney General concerning a transfer by the district, as defined in Section 32121, of a health care facility or provider group to a private equity group, or hedge fund, at least 135 days before the district board approves the transfer agreement or otherwise submits a resolution proposing the transfer to the voters of the district.

(B) A private equity group or hedge fund shall submit information sufficient to evaluate the nature of the acquisition or change of control and information sufficient for the Attorney General to determine if the transaction may have a substantial likelihood of anticompetitive effects and what mitigation measures could be adopted to avoid this result.

(C) The authority of the Attorney General to maintain competitive markets and prosecute state and federal antitrust and unfair competition violations shall not be narrowed, abrogated, or otherwise altered by this subdivision.

(8) Written notice to, and the consent of, the Attorney General shall not be required under subdivision (a) or (b) for transactions entered into before January 1, 2025, including subsequent renewals,

as long as those transactions do not involve a material change in the corporate relationship between the private equity group or hedge fund and a health care facility, provider group, or provider on or after January 1, 2025.

(9) Written notice to, and the consent of, the Attorney General under subdivision (a) shall only be required for transactions or agreements with the University of California in which a private equity group or hedge fund is purchasing, acquiring, or taking control, responsibility, or governance of a health care facility, provider group, or provider.

1190.20. (a) The Attorney General may consent to, give conditional consent to, or not consent to a transaction between a private equity group or hedge fund and a health care facility, provider group, or provider, pursuant to subdivision (a) of Section 1190.10, depending on the Attorney General's determination of whether the transaction may have a substantial likelihood of anticompetitive effects, including a substantial risk of lessening competition or of tending to create a monopoly, or may create a significant effect on the access or availability of health care services to the affected community.

(b) The Attorney General, in making a determination whether to consent to, give conditional consent to, or not consent to a transaction pursuant to this section, shall apply the public interest standard. The term "public interest" is defined as being in the interests of the public in protecting competitive and accessible health care markets for prices, quality, choice, accessibility, and availability of all health care services for local communities, regions, or the state as a whole. Protecting competitive and accessible health care markets includes considering the substantial risk of lessening competition in horizontal, vertical, or related markets, the substantial risk of anticompetitive effects from increased leverage or the ability to tie, the substantial risk of foreclosing competitors in the same or related markets, the substantial risk of decreased access or services in local markets, any other negative effects from the transaction, any benefits from the transaction that are specific to the transaction, any views from local communities on the transaction, and any other factors the Attorney General determines to be a public benefit. Negative effects may involve the substantial risk of increases in prices or costs, decreases in quality, or the lessening of access to or

availability of services. Benefits from the transaction may include price or cost decreases directly passed to patients, improvements in access or availability of services in the community, or capital improvements that will benefit local community care if that financing cannot be reasonably obtained elsewhere. The Attorney General may, in the public interest, take account of any other negative or positive effects of the transaction. Transactions shall not be presumed to be efficient for the purpose of assessing compliance with the public interest standard.

1190.30. (a) The Attorney General shall make a written determination, including the factual and legal basis for that determination, whether to consent to, give conditional consent to, or not consent to a transaction pursuant to Section 1190.20.

(b) Prior to issuing a written determination pursuant to subdivision (a), the Attorney General may hold a public meeting, which may be held in any of the counties in which the transaction will take place, or in the case of a declaration of an emergency in any of those counties or in the state, online, to hear comments from interested parties. Prior to holding a public meeting, the Attorney General shall provide notice of the time and place of any meetings by electronic publication, or publication in newspapers of general circulation, to consumers that may be affected by the transaction. If a substantive change or modification to the transaction is submitted to the Attorney General after a public meeting, the Attorney General may conduct an additional public meeting to hear from interested parties with respect to the change or modification. To the extent that a public meeting has already occurred under Sections 5916 and 5922 of the Corporations Code, the Attorney General may waive a subsequent meeting requirement under this section.

(c) (1) Within 14 days after service of the written determination described in subdivision (a), the private equity group or hedge fund may elect to proceed to an evidentiary hearing before an administrative law judge assigned to the Office of Administrative Hearings on the issue of whether the transaction, as proposed, may have a substantial likelihood of anticompetitive effects, including a substantial risk of lessening competition or of tending to create a monopoly, or may create a significant effect on the access or availability of health care services to the affected community, as described in subdivisions (a) and (b) of Section 1190.20, and any

other issue identified by the Attorney General in the written determination. The Office of Administrative Hearings shall prioritize the scheduling of a hearing held pursuant to this subdivision.

(2) The administrative hearing shall be conducted according to the following procedures:

(A) The Attorney General shall present evidence to support the written determination issued pursuant to subdivision (a).

(B) The private equity group or hedge fund shall present evidence in support of the request for review and the issues identified therein.

(C) All testimony received during the hearing shall be sworn.

(D) Any relevant evidence shall be admitted by the administrative law judge in accordance with the rules of evidence applicable to administrative proceedings.

(E) The administrative law judge shall have the authority to compel the attendance of witnesses and the production of documents.

(F) The administrative law judge shall have full discretion to determine the facts of the case.

(3) The Attorney General shall have the burden of proof to establish whether the transaction has a substantial likelihood of anticompetitive effects, including a substantial risk of lessening competition or of tending to create a monopoly, or may create a significant effect on the access or availability of health care services to the affected community, and all other factors forming the basis for the Attorney General's written decision.

(4) (A) At the conclusion of the administrative hearing, the administrative law judge shall establish such posthearing briefing requirements as the administrative law judge deems appropriate.

(B) Within 60 days after receipt of posthearing briefs, if any, or at the close of the hearing, whichever is later, the administrative law judge shall issue a statement of decision, which shall include findings of fact and conclusions of law regarding the issues presented during the hearing.

(5) Within 45 days after service of the statement of decision, the Attorney General shall issue a final determination accepting or rejecting the statement of decision, in whole or in part, and consenting to, giving conditional consent to, or refusing to consent to the transaction. The Attorney General shall, relying solely on

the administrative record, set forth the specific facts and conclusions of law which support the final determination.

(6) (A) If the Attorney General does not consent or gives conditional consent to a transaction in the Attorney General's final determination issued pursuant to paragraph (5), the private equity group or hedge fund may, within 30 calendar days after service of the final determination, seek judicial review of the final determination by filing a petition for a writ of administrative mandamus with the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

(B) In an action filed pursuant to subparagraph (A), the administrative record shall consist of all of the following:

(i) The Attorney General's written determination issued pursuant to subdivision (a).

(ii) The record of proceedings before the administrative law judge.

(iii) The statement of decision, including findings of fact and conclusions of law, issued by the administrative law judge following the proceedings.

(iv) The Attorney General's final determination issued pursuant to paragraph (5).

(C) The superior court shall consider the following issues in its consideration of the petition:

(i) Whether the Attorney General proceeded without, or in excess of, jurisdiction.

(ii) Whether there was a fair trial.

(iii) Whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the Attorney General has not proceeded in the manner required by law, the Attorney General's final determination is not supported by the findings, or the findings are not supported by the evidence.

(D) Notwithstanding any other provision of Section 1094.5 of the Code of Civil Procedure, the superior court may exercise its independent judgment on the evidence, and abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence pursuant to subdivision (c) of Section 1094.5 of the Code of Civil Procedure.

(E) Barring extraordinary circumstances or the consent of the parties, the superior court shall issue its response to the petition not later than 180 days after the filing of the petition.

1190.40. (a) A private equity group or hedge fund involved in any manner with a physician, psychiatric, or dental practice doing business in this state, including as an investor in that physician, psychiatric, or dental practice or as an investor or owner of the assets of that practice, shall not do either of the following with respect to that practice:

(1) Interfere with the professional judgment of physicians, psychiatrists, or dentists in making health care decisions, including any of the following:

(A) Determining what diagnostic tests are appropriate for a particular condition.

(B) Determining the need for referrals to, or consultation with, another physician, psychiatrist, dentist, or licensed health professional.

(C) Being responsible for the ultimate overall care of the patient, including treatment options available to the patient.

(D) Determining how many patients a physician, psychiatrist, or dentist shall see in a given period of time or how many hours a physician, psychiatrist, or dentist shall work.

(2) Exercise control over, or be delegated the power to do, any of the following:

(A) Owning or otherwise determining the content of patient medical records.

(B) Selecting, hiring, or firing physicians, psychiatrists, dentists, allied health staff, and medical assistants based, in whole or in part, on clinical competency or proficiency.

(C) Setting the parameters under which a physician, psychiatrist, dentist, or physician, psychiatric, or dental practice shall enter into contractual relationships with third-party payers.

(D) Setting the parameters under which a physician, psychiatrist, or dentist shall enter into contractual relationships with other physicians, psychiatrists, or dentists for the delivery of care.

(E) Making decisions regarding coding and billing procedures for patient care services.

(F) Approving the selection of medical equipment and medical supplies for the physician, psychiatric, or dental practice.

(b) The corporate form of that physician, psychiatric, or dental practice as a sole proprietorship, a partnership, foundation, or a corporate entity of any kind shall not affect the applicability of this section.

(c) A private equity group or hedge fund, or an entity controlled directly, in whole or in part, by a private equity group or hedge fund, shall not enter into an agreement or arrangement with a physician, psychiatric, or dental practice doing business in this state if the agreement or arrangement would enable the person or entity to interfere with the professional judgment of physicians, psychiatrists, or dentists in making health care decisions, as set forth in paragraph (1) of subdivision (a) or exercise control over or be delegated the powers set forth in paragraph (2) of subdivision (a).

(d) Any contract involving the management of a physician, psychiatric, or dental practice doing business in this state by, or the sale of real estate or other assets owned by a physician, psychiatric, or dental practice doing business in this state to, a private equity group or hedge fund, or any entity controlled directly or indirectly, in whole or in part, by a private equity group or hedge fund, shall not explicitly or implicitly include any clause barring any provider in that practice from competing with that practice in the event of a termination or resignation of that provider from that practice, or from disparaging, opining, or commenting on that practice in any manner as to any issues involving quality of care, utilization of care, ethical or professional challenges in the practice of medicine or dentistry, or revenue-increasing strategies employed by the private equity group or hedge fund. Any such explicit or implicit contractual clauses are void, unenforceable, and against public policy. This subdivision shall not impact the validity of an otherwise enforceable sale of business noncompete agreement, but a contract described in this subdivision shall not operate as an employee noncompete agreement.

(e) The Attorney General shall be entitled to injunctive relief, and other equitable remedies, a court deems appropriate for enforcement of this section and shall be entitled to recover attorney's fees and costs incurred in remedying any violation of this section.

1190.45. In furtherance of this division, the Attorney General may do all of the following:

(a) Contract with, consult, and receive advice from any state agency on terms and conditions that the Attorney General deems appropriate.

(b) Contract with experts or consultants to assist in reviewing a proposed acquisition or change in control. Contract costs shall not exceed an amount that is reasonable and necessary to conduct the review and complete the report. Any contract entered into under this section shall be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(c) Contract with experts or consultants to assist in effectively monitoring ongoing compliance with the terms and conditions of any acquisition or change of control subject to Section 1190.10. Contract costs shall not exceed an amount that is reasonable and necessary to conduct the review and complete evaluation. Any contract entered into under this section shall be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(d) The Attorney General may enforce conditions imposed on the Attorney General's consent to a transaction pursuant to Section 1190.10 to the fullest extent provided by law. In addition to any legal remedies the Attorney General may have, the Attorney General shall be entitled to specific performance, injunctive relief, and other equitable remedies a court deems appropriate for breach of any of the conditions.

1190.50. The Attorney General may adopt regulations to implement this division, including, but not limited to, regulations to extend time periods or to provide a process for requesting a waiver, pursuant to Section 1190.10.

1190.60. (a) This division is intended to address health care practices by private equity groups, and hedge funds that can lead to higher prices for services, lower quality at a given price for services, less cost-efficient services, restricted access to, or the closure of services, and less choice for services, which ultimately leads to higher prices and more inconvenience for consumers, and higher total cost of care for services.

(b) This division does not narrow, abrogate, or otherwise lower the bar on the corporate practice of medicine or dentistry as set forth in the Business and Professions Code or the Corporations Code, or any other applicable state or federal law.

(c) This division shall be construed, as a matter of state law, to be enforceable up to, but no further than, the maximum possible extent consistent with federal law and constitutional requirements,

even if that construction is not readily apparent, as these constructions are authorized only to the extent necessary to save the statute from judicial invalidation.

(d) The provisions of this division are severable. If any provision of this division or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 2. Section 127507 of the Health and Safety Code is amended to read:

127507. (a) The office shall monitor cost trends, including conducting research and studies on the health care market, including, but not limited to, the impact of consolidation, market power, venture capital activity, profit margins, and other market failures on competition, prices, access, quality, and equity. In a manner supportive of the efforts of the Attorney General, the Department of Managed Health Care, and the Department of Insurance, as appropriate, the office shall promote competitive health care markets by examining mergers, acquisitions, corporate affiliations, or other transactions that entail a material change to ownership, operations, or governance structure involving health care service plans, health insurers, hospitals or hospital systems, physician organizations, providers, pharmacy benefit managers, and other health care entities. The office shall prospectively analyze those transactions likely to have significant effects, seek input from the parties and the public, and report on the anticipated impacts to the health care market. The role of the office is to collect and report information that is informative to the public.

(b) This article does not apply to an exempted provider unless that provider is being acquired by, or affiliating with, an entity that is not an exempted provider. If an entity that is not an exempted provider is acquiring or affiliating with an exempted provider, the entity that is not an exempted provider shall meet the requirements of this article.

(c) (1) A health care entity shall provide the office with written notice of agreements or transactions that will occur on or after April 1, 2024, that do either of the following:

(A) Sell, transfer, lease, exchange, option, encumber, convey, or otherwise dispose of a material amount of its assets to one or more entities.

(B) Transfer control, responsibility, or governance of a material amount of the assets or operations of the health care entity to one or more entities.

(2) Written notice pursuant to paragraph (1) shall be provided to the office at least 90 days prior to entering into the agreement or transaction. If the conditions in paragraph (1) of subdivision (a) of Section 127507.2 apply, the office shall make the notice of material change publicly available, including all information and materials submitted to the office for review with regard to the material change.

(3) The office shall adopt regulations for proposed material changes that warrant a notification, establish appropriate fees, and consider appropriate thresholds, including, but not limited to, annual gross and net revenues and market share in a given service or region.

(d) The requirement to provide notice of a material change pursuant to subdivision (c) does not apply to any of the following:

(1) Agreements or transactions involving health care service plans that are subject to review by the Director of the Department of Managed Health Care for cost impact or market consolidation under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2).

(2) Agreements or transactions involving health insurers that are subject to review by the Insurance Commissioner under Article 16 (commencing with Section 1080) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(3) Agreements or transactions where a county is purchasing, acquiring, or taking control, responsibility, or governance of an entity to ensure continued access in that county.

(4) Agreements or transactions involving nonprofit corporations that are subject to review by the Attorney General under Article 2 (commencing with Section 5914) of Chapter 9 of Part 2, Division 2 of Title 1 of the Corporations Code.

(5) Transactions involving private equity groups or hedge funds that are subject to review by the Attorney General under Division 1.7 (commencing with Section 1190).

(e) Agreements or transactions exempted under subdivision (d) from the requirement to provide a notice of material change may be referred to the office for a cost and market impact review by the reviewing authority.

(f) This article does not limit the Attorney General's review of the conversion or restructuring of charitable trusts held by a nonprofit health facility or by an affiliated nonprofit health system or the Attorney General's review of any health care agreement or transaction under any state or federal law.

(g) This article does not narrow, abrogate, or otherwise alter the corporate practice of medicine doctrine, which expressly prohibits the practice of medicine or control of medicine, medical corporations, medical partnerships, or physician practices by entities or individuals other than licensed physicians and surgeons.

Approved _____, 2024

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Governor