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**Health Care Transaction
Review Laws
*for Digital Health Companies***

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Background/History

- Many states have long established Attorney General review of non-profit hospital/health care transactions (e.g., Colorado, Georgia, Hawaii, Michigan, Ohio, Rhode Island, Tennessee, Texas, Virginia).
- More recent crop of state laws aimed at monitoring the impact of health care transactions on *competition, quality, access and cost*.
- MA 2013 > CT 2014 > WA 2020 > NV 2021 > OR 2022 > NY 2023 > MN 2023 > IL 2024 > CA 2024 > IN 2024 > PA? > MN?
- Efforts to target private equity and management service organizations, including pending legislation in California, Pennsylvania, and Minnesota.

Transaction Notice/Approval Requirements – State Chart

State	Timeline	Notice and/or Approval
California	90 days pre-closing	Notice
Connecticut	30 days pre-closing	Notice
Illinois	30 days pre-closing	Notice
Indiana	90 days pre-closing	Notice
Massachusetts	60 days pre-closing *At least 30 days after commission issued report (if applicable)	Notice (and Approval *subject to commission's final market impact report, if required)
Minnesota	60 days pre-closing (* \$80 mil+) 30 days pre-closing or within 10 business days of date parties first reasonably anticipate entering into transaction (\$10-80 mil)	Notice
Nevada	30 days pre-closing	Notice
New York	30 days pre-closing & Post-closing e-mail notice to Department	Notice
Oregon	180 days pre-closing notice Oregon Health Authority must complete initial review within 30 days of submission.	Notice and Approval
Washington	60 days pre-closing	Notice and Approval (assumed unless within 60 days after notice is given, WA AG initiates further investigation).



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Practice Pointers

- Laws vary from state to state, including relevant definitions and materiality thresholds and filing requirements, and require fact sensitive analysis.
 - *Important if the transaction structure changes over the course of the deal – could impact notice or approval requirements. Type of entity involved in transaction matters.*
- Does NOT necessarily matter where entities are headquartered or domiciled.
- Revenue/assets *in state* versus *national* revenues may matter.
- Project revenue post-transaction *may* matter.
- Whether to file in a particular state may be driven more by a political/risk analysis than a technical legal conclusion.



Avoiding Delays/Inefficiencies

- Start early. Notice and approvals are generally **pre-closing**. Different timelines will play a role in the transaction.
- Diligence the health care operations of both parties in a transaction (including affiliates).
 - The operations of all parties may be relevant to the material change analysis.
- Seek early clarity on deal structure (financing/equity raise, stock deal/merger, asset sale, new management company, changes in board control or management).
- This process should be collaborative. Both parties may have to provide information to adequately notify regulators (e.g., financial and geography of operations, headcount of providers).
- Consider local counsel/experts (application submissions, liaisons with state AG offices/health departments).

Applicability of Laws – Digital Health Platforms*



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- **New York** – If \$25MM+ gross in-state revenue is expected from transaction.
 - Filing required 30 days prior to closing.
 - Law applies specially to entities that provide management services.
- **Oregon** – One party had average revenue of \$25 million or more in the preceding three fiscal years; other party had an average revenue of at least \$10 million in the preceding three fiscal years.
 - Law applies to entities that are “closely related to an entity that provides health care.”
 - Filing required 180 days prior to closing; but pre-review process.
- **Minnesota** – Broad definition of “exercising control” over a health care entity.
 - *But, if digital platform is performing any payor contracting functions or ancillary health care services closer review as to applicability of these laws is needed.

Applicability of Laws – Health Providers



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- California
- Connecticut
- Illinois
- Indiana
- Massachusetts
- Nevada
- Washington