

U.S. State Healthcare Transaction Reviews: Nevada

Healthcare Transaction Reviews Generally¹

Private investment in U.S. healthcare companies has grown significantly in recent years. U.S. state regulators have taken notice and have recently adopted a number of state healthcare transaction review laws focused on antitrust, quality, access and cost. These laws are intentionally broad and are clearly meant to target healthcare transactions owned by private equity-backed companies, including physician management services organizations.

While the laws vary from state to state, they generally require parties to submit filings to state regulators, including attorneys general, of “material transactions,” which may include, but are not limited to, majority and minority changes of ownership, joint venture agreements, restructurings, and certain debt transactions. Additionally, many of the laws specifically target physician practice management organizations.

Key takeaways from the filing and review processes:

- ▶ There are currently healthcare transaction review laws requiring notice submissions, and in some cases regulatory approval, in 15 states, with pending legislation in several other states.
- ▶ Preparation of the initial filings and subsequent responses to regulators will increase transaction costs, lengthen post-signing to closing periods and, in some states, will be as long as six months and may be made public.
- ▶ The laws are intended to capture transactions that fall below the current threshold set by federal antitrust enforcers and, in many cases, are aimed specifically at private equity investments in healthcare assets. The reporting/filing thresholds vary from state to state and use several metrics, including transaction financial value, revenue of implicated healthcare entities, and the number of healthcare providers implicated in the transaction.
- ▶ The laws require pre-closing filings and, in some cases, approval. The filings require detailed information, including transaction financing, anticipated impacts on the company’s operations, commitment to quality of care, and impacts on overall market competition, to name a few.
- ▶ Transaction approval may come with post-closing conditions, monitoring, or reporting obligations.

¹ The information contained in this document should not be construed as legal advice. Many of the state laws impacting healthcare transactions are new, and regulators are still finalizing the corresponding regulations. Once the regulations are finalized, state regulators will likely interpret the regulations in unanticipated ways, which could lead to unpredictable outcomes.

Nevada Health Care or Health Carrier Transactions Notification Requirement

Status	Effective as of 2021 Nevada Revised Statutes §§ 598A.370, 598A.390
Purpose	Requires parties to submit a notice to the Nevada Attorney General (“AG”) to analyze health care or health carrier transactions, that would result in a material change to the business structure, in order to monitor healthcare transactions and healthcare consolidation.
Impacted Health-Care Entities	<ul style="list-style-type: none"> • Group practices • Health insurance carriers
Who Must File	All parties in a reportable health care, health carrier or group practice transaction that would result in a material change to the business structure.
Transactions That Require a Filing:	<p>A “material change to the business or corporate structure” includes, without limitation:</p> <ul style="list-style-type: none"> • mergers and acquisitions by and between group practices or health insurance carriers, respectively; • the acquisition of all or substantially all of the properties and assets of a group practice; • the acquisition of all or substantially all of the capital stock, membership interests or other equity interest of a group practice or health carrier; • an affiliation with another group practice or health insurance carrier; or • employment arrangements of substantially all physicians in a group practice.
Notice Timing	Transacting parties must give the AG a 30-day pre-closing notice.
Content of Notice	<p>Parties may submit notice using the AG’s Advance Notice for Health Care and Health Carrier Transactions. The notice generally includes the following:</p> <ul style="list-style-type: none"> • a brief description of the nature of the parties’ proposed relationship; • the names and specialties of the practitioners of the group practices involved; • the names of the business entities involved; and • the location of the proposed healthcare services and a description of the services and the primary service area.
Substitute Notice	A copy of the Hart-Scott-Rodino filing for the transaction submitted to the AG (if applicable) or of the notice to the Commissioner of Insurance pursuant to NRS 692C.363 (if applicable) will satisfy the notice requirement
Exemption for Prior Common Ownership and Contracting Affiliation	Notice is not required for corporate reorganizations involving group practices or health insurance carriers under prior common ownership, or that have a contracting relationship established prior to October 1, 2021.
Penalties for Non-Compliance	Parties that willfully violate the requirements of the statute will be subject to civil penalties up to \$1,000 for each day in violation.

This presentation is being made based on the understanding that you have not yet decided whether to retain Kirkland & Ellis for this matter.

Accordingly, nothing that occurs (including if you provide us with information) during this process will preclude Kirkland & Ellis from representing others with interests adverse to you in this or any other matter. Any representative matters and other experience included herein may date from periods before an individual lawyer joined Kirkland & Ellis, may contain incomplete or colloquial client or entity name references, and should not imply current or former client status. None of these materials is offered, nor should be construed, as legal advice. Prior results do not guarantee a similar outcome.

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