

TYPES NOT MAPPED YET July 17, 2023 | TTR not mapped yet | Catherine R. Feorene

Illinois Passes Legislation Requiring Attorney General Notice of Certain Health Care Transactions

The Illinois legislature recently passed new antitrust legislation (“HB2222”) that will require advance notice to the Attorney General for health care facilities and health care provider entities engaging in certain covered transactions. If signed by the Governor, the new legislation will go into effect January 1, 2024.

HB2222 would provide the Attorney General with notice of all material health care facility transactions in Illinois, so-called “covered transactions”. A covered transaction, as defined in HB2222, is any merger, acquisition, or contracting affiliation between two or more health care facilities domiciled in Illinois not previously under common ownership or contracting affiliation. A covered transaction would also include any of the above between an Illinois health care facility and an out-of-state health care facility that generates \$10,000,000 or more in annual revenue from Illinois patients. Health care facilities that are party to a covered transaction would be required to provide notice of a covered transaction to the Attorney General at least thirty days prior to the transaction closing or effective date. The Attorney General may request additional information, and if so the transaction may not proceed until 30 days after the parties have complied with said request.

HB2222 is intended to supplement the federal Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 USC 18a) (“Hart-Scott-Rodino Act”) by requiring notice of transactions that are not reportable under the thresholds set by the Hart-Scott-Rodino Act, because unlike the Hart-Scott-Rodino Act, there are no minimum transaction value thresholds under HB2222. Additionally, HB2222 will require health care facilities and provider entities to provide a copy of any filings made pursuant to the Hart-Scott-Rodino Act to the Attorney General, which will satisfy the notice requirements within HB2222.

Failure to comply with any provision of HB2222 will leave parties to the transaction subject to a civil penalty up to \$500 per day for each day the party remains in violation of the legislation. Further, the Attorney General may apply for a temporary restraining order or injunction to prohibit the health care facility from continued noncompliance with HB2222.

Given the breadth of this new bill, coupled with the potential risks of non-compliance, health care facilities and provider entities must be mindful of its notification requirements when entering into a covered transaction.

authorsTest

catherine

Catherine R. Feorene