



## The 'Keep Our Care Act' threatens access to local care

### Background

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Washington's physicians and hospitals must retain the option to partner with each other to provide accessible care to our communities. Due to financial pressures and national and state drivers, independent hospitals and providers face substantial challenges. Many health care entities remain open for their communities only because of their ability to affiliate, merge or otherwise partner with another provider or hospital. In many cases, the alternative to a health care transaction is closure. These arrangements are already subject to antitrust oversight by the state Attorney General's Office, the federal Department of Justice and/or the Federal Trade Commission. Federal antitrust oversight is likely to increase under current federal proposals.

### WSHA Position

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WSHA opposes SB 5241 as drafted. It is a one-size-fits-all approach that places massive time, cost and process burdens on health care providers and hospitals. It is a blunt instrument that will stifle the ability of vulnerable hospitals and providers to find partners and keep providing critical services. The bill threatens to freeze local transactions, giving preference to players in the health care market that are not subject to the bill: insurance carriers, private equity firms, large businesses (i.e. Amazon and Walmart) and out-of-state entities. SB 5241 gives the Attorney General's Office (the state's law enforcement entity) massive unspecified regulatory powers to make decisions to condition, deny or approve transactions based on vague and unknowable standards.

### Key Messages

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- SB 5241 must be revised, including to apply to all health care marketplace participants, create a process for emergency review, establish thresholds for transactions subject to review and provide varying levels of review depending on the size and scope of a transaction.
- In 2022, Washington hospitals suffered \$2.1 billion in operational losses caring for patients. In the first six months of 2023, hospitals suffered \$750 million in operational losses. Washingtonians rely on hospitals to be there to care for heart attacks, strokes, trauma, appendicitis, cancer and other acute care needs. Access to specialized care and services is threatened by financial losses.
- Integration and strategic partnerships are driven by state and federal laws and reimbursement policies. This includes low reimbursement, administrative requirements from insurers, value-based and bundled payments, billing complexities and costs associated with health information technology.
- Health care transactions already have significant oversight. Federal: Hart Scott Radino, Sherman & Clayton Acts (antitrust). State: Pre-transaction notice (RCW 19.390), state antitrust (RCW 19.86), Consumer Protection Act (RCW 19.86), Certificate of Need (RCW 70.38), nonprofit hospital conversion (RCW 70.45).
- If the state believes there needs to be more oversight, make sure it is expansive to cover all marketplace participants and tailored to match the type of transaction being reviewed.

### Contact Information

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