



SENATE BILL 978: Healthcare Competition Reforms.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2025-2026 General Assembly

Committee:	Senate Health Care. If favorable, re-refer to Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 11, 2026
Introduced by:	Sen. Burgin	Prepared by:	Jason Moran-Bates
Analysis of:	First Edition		Committee Staff

OVERVIEW: Senate Bill 978 would allow the Attorney General, State Auditor, and State Treasurer to collectively review and object to proposed mergers or acquisitions of hospitals. Any proposed mergers or acquisitions would have to be noticed in advance and allow for public comments. If the Attorney General, State Auditor, and State Treasurer objected to a proposed merger or acquisition, they could file a court action seeking to block or modify the transaction. The court could issue an order approving, blocking, or modifying the proposed transaction. The bill would also prohibit (i) retaliatory actions against healthcare providers who report violations to regulatory authorities, (ii) non-disclosure clauses that restrict healthcare professionals' ability to report violations to regulatory authorities, and (iii) non-compete clauses in many hospital employment contracts. Finally, it would cap annual compensation of CEOs at nonprofit hospitals that receive state funds at 400 times the annual compensation of the lowest-paid, full-time hospital employee.

BILL ANALYSIS:

Part I of the bill would establish the Preserving Competition in Healthcare Act, establishing a procedure for the State Auditor, the Attorney General, and the State Treasurer (Reviewing Parties) to approve certain transactions between hospitals.

Definitions. The term "transaction" would be defined to include any of the following if the value of the transaction is at least \$5 million:

- The transfer of at least 50% of the assets from one hospital to another, provided the hospitals are not owned or controlled by the same entity.
- The transfer of control from one hospital to another, provided the hospitals are not owned or controlled by the same entity.
- Any agreement to transfer at least 50% of a hospital's assets to another entity.
- Any transaction, regardless of structure, that would be subject to review if it were structured as a purchase, merger, or joint venture.
- Transfers of at least 50% of a hospital's assets in the course of a bankruptcy proceeding.

Waiver and Decisions. Transactions that occur in the regular course of business would not need to be reviewed, and the Reviewing Parties would be able to waive review. Any action or decision made by the majority of the Reviewing Parties would prevail.

Notice to Reviewing Parties. Before entering into any transaction subject to review, a hospital would have to provide notice to the Reviewing Parties. The notice must contain a certification that each member of

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the hospital's governing body has been provided with a copy of this act. The written notice would not be effective until the Reviewing Parties acknowledge receipt of a complete notice package, and the requirements of complete notice would be established by rule.

Timeline. After acknowledging receipt of a complete notice package, the Reviewing Parties would have 60 days to complete a review of the transaction. Requests for additional information after acknowledging receipt of a complete notice package would not delay the beginning review period. The Reviewing Parties may extend the review period by an additional 30 days after providing notice to all parties to the transaction.

The Reviewing Parties would be required to decide whether to object to the transaction within the 60- or 90-day review period.

Public Notice. Regardless of whether the notice to the Reviewing Parties has been acknowledged as complete, the hospital must provide public notice of a non-bankruptcy transaction within 10 days of providing notice to the Reviewing Parties. That public notice must contain the following:

- The identities of all parties to the transaction and the nature of the transaction.
- The monetary compensation for the transaction.
- A statement that written comments may be provided to the Attorney General.
- The time, date, and location of any public hearing.
- If the hospital is a nonprofit or publicly owned, a link to a detailed summary of the transaction and any relevant documents that are not specifically exempt from the Public Records Act.

Public Hearing. Regardless of whether the notice to the Reviewing Parties has been acknowledged as complete, within 30 days of providing notice to the Reviewing Parties, the hospital must conduct a public hearing. The hearing cannot be held until at least 14 days after the public notice has been published. At least 7 days before the hearing, the parties to the transaction must provide notice of the hearing to the Reviewing Parties and the governing bodies of any county or municipality in which a party to the transaction is located. If the Reviewing Parties approve, the public hearing, with meaningful opportunity for public input, may be conducted virtually. At the public hearing, the parties to the transaction must discuss (i) the expected impact of the transaction on the cost, availability, accessibility, and quality of healthcare services, (ii) the process in determining the monetary compensation for the transaction, and (iii) if the hospital is a nonprofit or publicly owned, how the transaction will affect the nonprofit or community activities of the hospital. The Reviewing Parties may also conduct their own public hearing.

Required Considerations by Reviewing Parties. In deciding whether to object to a transaction, the Reviewing Parties must consider all of the following:

- Whether the fair market value of any assets to be transferred has been manipulated.
- Whether healthcare providers will be allowed to invest in the transaction, and, if so, whether there are safeguards to prevent a conflict of interest.
- Whether the terms of the transaction are reasonable.
- Whether the transaction complies with applicable state and federal laws.
- Whether all required information has been provided.
- Any objections raised in comments submitted to the Attorney General
- The effect of the transaction on accessibility to affordable, quality healthcare.

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- Whether there has been a commitment to provide free healthcare to individuals who make less than 300% of the federal poverty level or are disadvantaged or uninsured.
- Whether the transaction will result in the loss of hospital privileges for any healthcare provider.
- Whether there will remain opportunities for medical research and education.

If the transaction involves a nonprofit or publicly owned hospital, the following must also be considered:

- Whether the hospital would receive fair market value for its charitable assets.
- Whether the proceeds of the transaction would be used in a manner consistent with the trust under which the assets are held by the hospital.
- Whether the proceeds of the proposed transaction would be used by a county or municipality for general or special revenue obligations not expressly provided for when the hospital was established.
- Whether the proposed transaction would result in a breach of fiduciary duty.
- Whether the governing body of the hospital exercised due diligence in deciding to dispose of the hospital's assets.
- Whether the proposed transaction would result in private inurement to any person.
- Whether any foundation established to hold the proceeds of the proposed transaction would be broadly based in the community and be representative of the affected community.

Contracting with Outside Entities and Fees. In reviewing a transaction, the Reviewing Parties may contract with outside entities, provided the costs are reasonable. They may also request information from the Department of Health and Human Services (DHHS). If information is requested from DHHS, the review period may be lengthened by an additional 30 days. The Reviewing Parties may request a fee of up to \$50,000 from the parties to the transaction to cover review, hearing, and outside entity costs. The parties to the transaction may dispute the reasonableness of the fee in court. If the court fails to rule in favor of the parties to the transaction, they must reimburse the Reviewing Parties their court costs. Failure to pay the fee is grounds for the Reviewing Parties to object to the transaction.

Objection to the Proposed Transaction. The Reviewing Parties may object to a proposed transaction at any time within the review period. If they object to a proposed transaction, they must file an action in Superior Court. While that action is pending, the parties to the transaction cannot consummate the transaction. The bill would establish procedural requirements for the court action, and the court may enter orders approving, disapproving, or modifying the transaction.

If the hospital is a nonprofit or publicly owned entity, the Reviewing Parties must establish by clear and convincing evidence, one of the following:

- There was a breach of fiduciary duty in negotiating the terms of the transaction and consummating the transaction would also result in a breach of fiduciary duty.
- The assets of the hospital dedicated to charitable purposes would no longer be dedicated to charitable purposes after the transaction is consummated.
- Consummation of the transaction would have significant ill effects on the cost, availability, accessibility, and quality of healthcare.

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If the hospital is a for-profit entity, the Reviewing Parties must establish, by clear and convincing evidence, that the transaction would have significant ill effects on the cost, availability, accessibility, and quality of healthcare.

Parties may refuse to consummate transactions modified by court order. Transactions modified by court order would not be subject to further review by the Reviewing Parties.

Post-transaction Reporting and Additional Actions. After a transaction has been (i) not objected to by the Reviewing Parties, (ii) approved with modifications by court order, or (iii) approved by court order, the acquiring entity must file annual reports with the Reviewing Parties on its compliance with the terms of the transaction. If the hospital was a nonprofit or publicly owned entity, the acquiring entity must also report on its charitable activities and disposition of its charitable assets.

If the Reviewing Parties believe the terms of the transaction have not been complied with, they may file an action seeking to restore the benefits of healthcare provider competition. In order to obtain relief, they must prove, by clear and convincing evidence, the benefits of the relief sought to restore the benefits of healthcare provider competition in any part of the State clearly outweigh the costs of doing so. No secondary action may be brought more than five years after the transaction has been consummated.

The acquiring entity may not change the hospital's financial assistance policy without providing 120 days' notice to the Attorney General, hospital staff, and patients who have benefitted from the financial assistance policy. Notice is not required if the change is limited to increasing income limits used to determine eligibility for financial assistance.

Violations and Penalties. Transactions entered into in violation of this act are null and void. Governing board members and chief financial officers of parties to a transaction entered into in violation of this act are subject to a civil penalty of up to \$50,000, which may be increased to \$1 million for a wanton disregard of the law. DHHS cannot renew the license of a hospital that is a party to a transaction that violated the notice, public hearing, and review requirements of this act.

\$50,000 in nonrecurring funds for the 2026-27 fiscal year would be appropriated to the State Auditor to be used for reviewing transactions under this act.

The substantive provisions of this section would be effective January 1, 2027, and apply to activities occurring on or after that date. The appropriation in this section would be effective July 1, 2026.

Part II of the bill would prohibit anyone from taking adverse or retaliatory action against a healthcare provider who (i) reported medical staff bylaw violations to regulatory authorities or (ii) made comments regarding patient care for the protection of the public. Part II would also prohibit nondisclosure agreements with healthcare professionals from prohibiting the healthcare professionals (i) discussing patient safety concerns with regulatory agencies, (ii) reporting violations of law, ethics, or medical staff bylaws to the appropriate authorities, or (iii) providing new practice information to patients upon the patients' request. Contracts for employment with hospitals could not contain non-compete provisions. Any contract clauses with these prohibited terms would be void.

This part would be effective July 1, 2026, and apply to contracts entered into, modified, or renewed on or after that date.

Part III of the bill would prohibit the chief executive officer of any nonprofit hospital that receives state funds from having an annual compensation more than 400 times greater than the annual compensation of the hospital's lowest-paid, full-time employee. Hospitals that violate this provision would be subject to a civil penalty in the amount of the chief executive officer's annual compensation.

EFFECTIVE DATE: Except as otherwise provided, the bill would be effective when it becomes law.