

AB 2036 (Muratsuchi): Ensuring Consumers Are Protected by AG Oversight in Non-Profit Health Care Facilities Transactions

Oversight by California's Attorney General of the sale or transfer of health care facilities is one of the key consumer protections we have to ensure that a transaction is beneficial for Californians.

When a health care facility is owned or operated by a nonprofit corporation, California's Attorney General (AG) must review and consent to its sale or transfer. When the Attorney General is involved in the review and evaluation of a sale, the oversight often includes a public meeting process. The review also includes the preparation of an independent health care impact statement that seeks to evaluate whether the proposed transaction may have a significant impact on the availability or accessibility of health care services to the affected community. After the review and evaluation, the AG may impose conditions to benefit consumers related to the operations of the analyzed health care facility, that must be maintained after the proposed sale or transaction.

Conditions imposed by the AG in these transactions protect the interests of health care consumers that otherwise may be adversely impacted by a sale or transfer of a health care facility in their region. Often conditions may include requirements to ensure the continuity of emergency care, labor and delivery, women's reproductive health, LGBTQ services, or any other vital services for a specified time. Additionally, there are often conditions related to maintaining or expanding charity care obligations by the facility or even prohibiting anti-competitive contracting practices; both of which directly impact the pocketbooks of health care consumers. Currently, this oversight applies to nonprofit health care facilities that are licensed to provide 24-hour care, and includes nonprofit acute care hospitals and skilled nursing facilities. However, the Attorney General's oversight is not required when the sale or transfer is a for-profit to for-profit transaction, like the recent cases of St. Francis Medical Center in Lynwood and St. Vincent Medical Center in Los Angeles. This leaves consumers affected by changes from a subsequent sale without any public comment or oversight options.

FACT SHEET: AB 2036 (Muratsuchi)

Clarifying Existing Law to Preserve Consumer Protections in Health Facilities Transactions

Under existing law, the AG's authority to oversee these transactions and impose conditions is derived from their authority to regulate charitable trusts and nonprofit organizations. However, existing law should be clarified to continue to allow for the AG to impose conditions that extend to health facilities for any time specified, even after other subsequent sales, including when that subsequent buyer may not be a nonprofit entity. This proposal would clarify that if the Attorney General imposes conditions based on its consent to an agreement or transaction, those conditions shall remain in effect for the entire period of time specified by the Attorney General, regardless of whether that health facility is subject to an additional or subsequent sale or transaction. AB 2036 ensures that consumers are protected by the conditions and timeframe set by the AG no matter what additional transactions take place after the fact.