Publications

September 30, 2024 • Updates

Governor Newsom Vetoes AB 3129, Addressing Private Equity in California Health Care Transactions

On Saturday, September 28th, Governor Newsom vetoed AB 3129, which would have required pre-closing notice to and, in some instances, approval by the California Attorney General for a wide range of private equity health care transactions in California. In his veto message, Newsom addressed the recently established Office of Health Care Affordability ("OHCA"), and its pre-closing notice and review requirements that went into effect earlier this year. Newsom nodded to the potential overlap of the two laws and review processes and stated that it is OHCA's role to review certain health care transactions and to monitor market consolidation in California. OHCA may also refer certain health care transactions to the California Attorney General for further review.

While AB 3129 will likely not become law in California[1], its passage in both the Assembly and Senate are an indication that there may be increasing attention by California regulators on private equity involvement in the health care industry. Given the language in AB 3129 with respect to parameters for PC-MSO arrangements, these organizational and operational structures may be under increased scrutiny, regardless of whether private equity is involved. Health care businesses and operators that employ the PC-MSO structure would be wise to engage in careful review of their respective arrangements with qualified health care legal counsel who understand the requirements and nuances of California's strict corporate practice of medicine requirements to help ensure compliance on the road ahead.

[1] There may be some potential for the California legislature to override the Governor's veto, but that appears unlikely at present.

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