

CHAPTER 293
HB 552-FN - FINAL VERSION

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to transparency and standards for acquisition transactions in health care.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 293:1 Director of Charitable Trusts; Standards for Acquisition Transactions Involving Health
2 Care Charitable Trusts and Review by Director of Charitable Trusts. Amend RSA 7:19-b, II(b) to
3 read as follows:

4 (b) Due diligence has been exercised in selecting the acquirer, in engaging and
5 considering the advice of expert assistance, in negotiating the terms and conditions of the proposed
6 transaction, and in determining that the transaction is in the best interest of the health care
7 charitable trust and the community ***or communities*** which it serves, ***including the community's***
8 ***or communities' need for access to quality and affordable physical and mental health care***
9 ***services***;

10 293:2 Director of Charitable Trusts; Standards for Acquisition Transactions Involving Health
11 Care Charitable Trusts and Review by Director of Charitable Trusts. Amend RSA 7:19-b, II(e)-(g) to
12 read as follows:

13 (e) The assets of the health care charitable trust and any proceeds to be received on
14 account of the transaction shall continue to be devoted to charitable purposes consistent with the
15 charitable objects of the health care charitable trust and the needs of the community ***or***
16 ***communities*** which it serves, ***including the community's or communities' need for access to***
17 ***quality and affordable physical and mental health care services***;

18 (f) If the acquirer is other than another New Hampshire health care charitable trust,
19 control of the proceeds shall be independent of the acquirer; and

20 (g) Reasonable public notice of the proposed transaction and its terms has been provided
21 to the community ***or communities*** served by the health care charitable trust, ***including, but not***
22 ***limited to, transaction documents and an analysis of how the transaction will meet the***
23 ***community's or communities' need for access to quality and affordable physical and***
24 ***mental health care services***, along with reasonable and timely opportunity for such community,
25 through ***well-noticed*** public ~~hearing or~~ ***hearings and*** other similar methods, to inform the
26 deliberations of the governing body of the health care charitable trust regarding the proposed
27 transaction.

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1 293:3 Director of Charitable Trusts; Standards for Acquisition Transactions Involving Health
2 Care Charitable Trusts and Review by the Director of Charitable Trusts. Amend RSA 7:19-b, III and
3 IV to read as follows:

4 III. Notice of a proposed acquisition transaction shall be given to the director of charitable
5 trusts in writing to be received by the director no less than [~~120~~] **180** days before consummation of
6 the transaction. Such notice shall identify all parties to the transaction; shall set forth all material
7 terms thereof, including, without limitation, any changes in control or ownership of assets, any
8 acquisition price, any change in the capital structure and management, and any and all
9 compensation paid or to be paid in connection therewith; shall include a copy of the minutes and
10 other documents evidencing the decision of the governing body of the health care charitable trust,
11 including documentation of steps taken to comply with paragraph II(g) of this section and any
12 changes in the proposed transaction resulting therefrom, any relevant community needs assessment
13 developed by the health care charitable trust, ***data and analysis demonstrating how the***
14 ***transaction will meet the community's or the communities' need for access to quality and***
15 ***affordable physical and mental health care services***, and a copy of the acquisition agreement
16 and financial statements of all parties; and shall include a certification signed by those members of
17 the governing body or other person approving the acquisition on behalf of the health care charitable
18 trust that the standards set forth in paragraph II of this section have been considered in good faith
19 and complied with, together with such explanations and other documentation as may be necessary to
20 demonstrate such compliance. The notice shall also include a statement from the acquirer specifying
21 the manner in which it proposes to continue to fulfill the charitable objects of the health care
22 charitable trust. Any information submitted pursuant to this section shall be subject to RSA 91-A.

23 IV.(a) Within a reasonable time, not to exceed [~~120~~] **180** days after receipt of the notice
24 specified in the preceding paragraph, the director shall determine compliance with the standards set
25 forth in paragraph II of this section and shall notify the parties either that the director will take no
26 further action with respect thereto, or that the director objects to the transaction on specified
27 grounds. Within [~~60~~] **90** days following receipt of the notice specified in the preceding paragraph,
28 the director may require submittal of such additional information as may be reasonably necessary to
29 make such a determination. In making such a determination, the director shall accept public
30 comment and may conduct public hearings relating thereto within the time specified in this
31 paragraph and may direct the health care charitable trust to publish notice thereof in a manner
32 reasonably specified by the director. Such hearing may be conducted informally or in conformity
33 with RSA 541-A, at the discretion of the director. The expenses of such public hearing shall be paid
34 for by the parties to the proposed transaction, after consultation with the parties. Where the
35 acquisition transaction involves assets, the fair value of which are in excess of \$5,000,000, after
36 consultation with the parties, the director may employ, at the parties' expense, expert assistance,

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1 including independent counsel and independent financial advisors that are reasonably necessary to
2 make the determination specified in this paragraph.

3 ***(b) The director shall seek input and advice from the commissioner of the***
4 ***department of health and human services and the insurance commissioner and may obtain***
5 ***from them confidential health care data and information in performing his or her***
6 ***functions under this section.***

7 293:4 Applicability. This act shall apply only to notices filed with the director of charitable
8 trusts on or after the effective date of this act.

9 293:5 Effective Date. This act shall take effect January 1, 2020.

Approved: July 29, 2019

Effective Date: January 01, 2020