

KROKIDAS & BLUESTEIN

ATTORNEYS

CLIENT ALERT

CHAPTER 224 HEALTH CARE COST CONTAINMENT UPDATE #3: INTERIM GUIDANCE ON NOTICE OF MATERIAL CHANGE

Chapter 224 of the Massachusetts Acts of 2012, “An Act Improving the Quality of Health Care and Reducing Costs Through Increased Transparency, Efficiency and Innovation” (“Chapter 224”), became effective on November 5, 2012. The law aims to control health care costs through the creation of new agencies, adoption of alternative payment methodologies, investment in prevention, and increased price transparency.

As implemented under Chapter 224, Massachusetts General Laws Chapter 6D, § 13 requires providers and provider organizations to submit notice to the parties specified below not less than sixty days before the effective date of a proposed “material change” to its operations or governance structure (the “Notice Requirement”). This notice must be delivered to: (1) the Health Policy Commission (“HPC”), (2) the Center for Health Information and Analysis, and (3) the Attorney General’s Health Care Division.

In connection with the Notice Requirement, HPC issued ‘Bulletin 2013-01: Interim Guidance for Providers and Provider Organizations Relative to Notice of Material Change’ (the “Interim Guidance”) at its meeting on March 12, 2013. The Interim Guidance governs all material changes closing after March 12, 2013, and will be in place until superseded by final regulations. HPC has publicly committed to promulgating proposed regulations within the next three months.

Highlights from the Interim Guidance are as follows:

- The Notice Requirement applies to health care providers and provider organizations with at least \$25 million in net patient service revenue during the preceding fiscal year.
- The definition of what constitutes a “material change” includes:
 - A merger with, or acquisition of or by, a hospital or a hospital system;
 - Any other acquisition, merger, or affiliation with another provider or provider organization where such acquisition, merger, or affiliation would result in an

- increase in annual net patient service revenue of the provider or provider organization of at least \$10 million;
- Any clinical affiliation with another provider or provider organization which itself had an annual net patient service revenue of at least \$25 million in the preceding fiscal year; and
 - Any formation of a partnership, joint venture, common entity, accountable care organization, or parent corporation created for the purpose of contracting on behalf of one or more providers or provider organizations.
- The two-page mandated form of notice is a public record and must include information such as the nature and objectives of the proposed change, the change's anticipated impact (based on a consideration of ten factors), and other material changes the provider or provider organization anticipates making within the next twelve months.

To review the Interim Guidance presented at the HPC meeting [click here](#). We expect it to be posted on the HPC website. Please contact Robert Griffin (rgriffin@kb-law.com) or Jennifer Gallop (jgallop@kb-law.com) or another member of Krokidas & Bluestein's health care team if you have questions as to the Notice Requirement's applicability to your organization.