



NEW YORK ASSEMBLY AND SENATE ISSUES GUIDANCE ON NOT-FOR-PROFIT LAW

In the closing hours of the New York State Legislature (2018), there were two changes enacted to the New York Not-for-Profit Corporation Law. The analysis below provides an overview of the new legislation.

1. CHAPTER 411 of the laws of 2018 amended paragraph (a) of section 601 of the Not-for-Profit Corporation Law (NPCL) to provide that no corporation shall have a membership comprised of fewer than three (3) persons (except a corporation that has no members) and further provides that such a corporation may have a corporation, joint-stock association, unincorporated association or partnership as a sole member.

Comment: As many not-for-profit corporations have corporate members (a typical hospital/health system relationship), this change would not affect these corporations unless the "Parent" entity is owned or controlled by no fewer than three (3) persons. In most cases the "Parent" does not have individual members, so the new change will have no impact. If, however, the "Parent" does have individual members, then there must be at least three (3) persons.

2. SECTION 712-a of the Not-for-Profit Corporation Law was also amended to provide that members of the audit committee of the corporation (comprised of independent directors) may also serve on the audit committee of a controlling corporation.

Comment: Thus, for example, a hospital's audit committee is comprised of individuals who also sit on the audit committee of a "parent" organization (such as a health system or another health care institution). Such dual participation is permitted. The individual serving on both audit committees must, however, be "independent" (meaning not an employee of or otherwise receiving compensation from the corporation).

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Should you have any questions regarding the above, please contact the [Garfunkel Wild attorney](#) with whom you regularly work.

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