



## **MEMORANDUM**

To: Senator Monnes-Anderson, Chair, Senate Committee on Health Care  
Senator Kruse, Co-chair, Senate Committee on Health Care  
Members of the Senate Committee on Health Care

From: Bryan Boehringer, OMA Government Relations  
Mark Bonanno, OMA General Counsel

Date: April 8, 2015

Re: SB 880

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SB 880 seeks to amend ORS 58.375 which is Oregon’s codification of a state public health policy known as the “corporate practice of medicine doctrine.” The policy behind the doctrine was to guard against corporate and business interests from owning and controlling the operation of physician practices and thus making the medical and ethical interests of the doctor and the patient secondary to pure business interests. Further, as the doctrine has evolved to permit physicians to practice within business entities such as the professional corporation, licensing boards such as the Oregon Medical Board only had jurisdiction over licensed individuals, not corporations which could not maintain a license to practice medicine. As a result, Oregon’s doctrine required that physicians both control the ownership and management of the business entity.

ORS 58.375 really is limited to the practice of medicine. The statute expressly applies to “a professional corporation organized for the purpose of practicing medicine.” The term practicing medicine is defined over in the Oregon Medical Practice Act at ORS 677.085. In short, ORS 58.375 is wholly about the practice of medicine by physicians.

Notably, ORS 58.375 does not apply to any other independently practicing health care provider, and does not operate to prevent an independent provider such as a nurse practitioner from owning or operating a professional corporation that renders health care services as permitted by the Oregon Nurse Practice Act.

The doctrine was modified in 2007 to allow for corporate control of an organization providing medical services as long as the corporation was a nonprofit corporation under Oregon law that was organized for the purpose of being either a federal health center or Federally Qualified Health Center. Both federal designations are intended to provide access to medical care for medically underserved populations. OMA supports that public health policy.

The introduced version of SB 880 carves out a new exception to the doctrine for entities that provide only palliative care or operate a rural health clinic as defined by a citation to another federal law that defines the term “rural health clinic.”

The definition of palliative care comes from the Oregon Workers’ Compensation Program and it means “medical service rendered to reduce or moderate temporarily the intensity of an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal or permanently alleviate or eliminate a medical condition.” ORS 656.005. The term is rather broad and the OMA is unclear about the rationale for carving this out from the definition of the practice of medicine.

Similarly, the proposed reference to a federal “rural health clinic” has no safeguard similar to the current safeguard applicable to FQHCs that they be operated by a nonprofit corporation whose mission is to provide services to medically underserved populations.

OMA has concerns about this legislative concept and what interests want to engage in the practice of medicine without physician interests being the primary interests in the business entity to ensure that medical and ethical interests are put first ahead of pure business interests.

For the reasons above, the OMA respectfully opposes SB 880 as it currently is drafted.

**The Oregon Medical Association is an organization of over 8,100 physicians, physician assistants, and medical students organized to serve and support physicians in their efforts to improve the health of Oregonians. Additional information can be found at [www.theOMA.org](http://www.theOMA.org).**