

# Safeguarding Patient Interests and Physician Independence

Bill Brief

The Office of Representative Bowman

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## Background

Corporations, including insurance companies, private equity investors, and retailers, are investing in primary care at unprecedented levels. In the last ten years, investment rose 100,000% from \$15 million annually to \$16 billion. Increased investment can expand access to care and often lifts an administrative burden off physicians' shoulders, but **corporate interests can also bring profit-maximizing tactics to primary care, including surprise bills, staffing cuts, shorter patient appointments, and overbilling practices.** To prevent the profit motive from having an outsized impact on patient care, Oregon, like many states, has historically banned the corporate ownership of primary care providers. Yet these protections have weakened over the decades, opening new loopholes. With unprecedented changes in the field, it's time to update regulations to ensure doctors remain in control of patient care.

## The Bill

### 1. Close Loopholes.

**Problem:** In Oregon, the law requires that most of the owners and directors of a professional corporation (PC) practicing medicine be licensed physicians. However, by forming as a Limited Liability Company (LLC) or Limited Liability Partnership (LLP), a corporation can practice medicine without the same ownership requirements.

**Solution: Close the loophole for LLCs and LLPs.** Require that most directors, officers, and shareholders be licensed physicians.

### 2. Ensure practicing physicians always have control of patient care.

**Problem:** It is common for a PC to pay a corporate Management Services Organization (MSO) to take care of its non-healthcare administrative work, such as hiring non-professional staff and handling billing and collections. However, **corporations have used creative contracting practices to take control of client PCs.**

**Solution: Keep doctors in control.** Require the practicing physicians who own the practice to retain ownership over the assets and control of business operations and patient care. Ban the MSO contracting practice of forbidding doctors from selling their shares in a PC.

**Solution: Prevent corporate executives from taking control.** Ban any director, officer, and shareholder of a medical PC who is also a shareholder or employee of an MSO from exercising voting rights in their capacity in the PC.

### 3. Ensure practicing physicians always have control of patient care.

**Problem:** Through non-compete agreements, MSO contracts force doctors on staff to stay with a practice or give up their livelihoods. Additionally, non-disclosure and anti-disparagement clauses prevent physicians telling patients or the public about the practices within the professional corporation.

**Solution: Ban non-competes for staff doctors.** A practice's value is its patient roster. Although doctors selling their practices should not be able to set up new ones underneath their buyer's feet, employee physicians or physicians with a marginal stake in the practice should be able to leave when they choose. Thus, the bill bans non-compete agreements, except after the sale of a practice. After the sale of a practice, only physicians who had more than a 25% ownership stake can be bound by a non-compete for no longer than 12 months.

**Solution: Ban non-disclosure and non-disparagement clauses for physicians.** Prohibits an employer from firing a physician for speaking out. Empowering doctors to speak out will enable greater transparency and accountability in primary care.

### 4. Disclose Ownership Structure and Corporate Partners.

**Problem:** The law does not require the private hospitals and care providers to report their owners or contracts with MSOs, leaving patients in the dark about who profits from their care.

**Solution: Mandate the disclose of ownership structures and contract relationships.** Require hospitals to disclose who owns them and PCs to report contractual relationships with MSOs with parent corporations.

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