

HB 4130 A -A7, -A10 STAFF MEASURE SUMMARY

Senate Committee On Health Care

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Meeting Dates: 2/26

WHAT THE MEASURE DOES:

The measure updates Oregon's corporate practice of medicine standards to keep decisions regarding the administration of a health care business separate from decisions regarding the delivery of health care. It also restricts noncompetition agreements and disciplinary actions by a health care business against physicians.

Detailed Summary

Applies new provisions to requirements in existing law (ORS 58.375) for officers of a professional corporation, except the secretary and treasurer, to be licensees of the Oregon Medical Board or Oregon State Board of Nursing. Defines “management services organization” (MSO). Prohibits a shareholder, director, or officer of a corporation organized for the purpose of practicing medicine (“professional corporation”) from taking specified actions in relation to an MSO that the professional corporation has a contract with, including:

- Owning or controlling shares in both the professional corporation and MSO
- Setting certain conditions on employment for physicians
- Removing a director or officer except by majority vote of shareholders with specified exceptions for fiduciary duty violations, Oregon Medical Board disciplinary actions, and fraud
- Relinquishing control over assets, business operation, or clinical practices or decisions
- Giving a proxy to vote the shares of the professional corporation

Exempts shareholders who have control over less than five percent of shares or whose share ownership is incidental. Exempts specified professional corporations, including:

- Corporations solely and exclusively engaged in telemedicine
- PACE organizations
- Mental health or substance use disorder crisis line providers
- Urban Indian health programs
- Recipients of a Tribal Behavioral Health or Native Connections program grant
- Specified behavioral health care providers
- Hospitals

Permits the Oregon Health Authority (OHA) to submit to the Secretary of State a complaint regarding violation of corporate practice of medicine laws. Specifies SOS disciplinary authority for violations of corporate practice of medicine laws. Allows a professional corporation up to seven years to remove grounds for SOS discipline. Permits OHA to apply to circuit court for order to stay a merger or acquisition that OHA determines will violate corporate practice of medicine standards. Requires company organized for a medical purpose and holding entity to comply with corporate practice of medicine requirements for professional corporations. Makes noncompetition, nondisclosure, and nondisparagement agreements void and unenforceable with specified exceptions.

FISCAL: *Has minimal fiscal impact*

REVENUE: *No revenue impact*

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

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-A7 The proposed A7 amendment replaces provisions of the measure that update requirements for professional corporations organized for the purpose of practicing medicine. It directs the Legislative Policy and Research Office (LPRO) to study the effects of business entities engaging in the practice of medicine and establishes a work group to provide input on a report to the Legislative Assembly.

Detailed Summary

Directs LPRO to study:

- the fiduciary duties of business entities that contract with or employ licensed health care professionals
- the adequacy of existing laws to ensure that licensed professionals remain in control of clinical practices
- whether MSO contracts, conflicts of interest, noncompete clauses, or other practices have disrupted the practices of licensed professionals
- remedies that would effectively preserve the role of licensed professionals and protect patients

Directs LPRO to convene a work group and to produce a report to include input from the work group along with LPRO's independent research and evaluations. Requires LPRO to submit the report to interim committees of the Legislative Assembly by November 1, 2024.

-A10 The A10 amendment clarifies the exemptions described in the A-engrossed version of the measure for certain of practices that would be exempt from the updated requirements for professional corporations. It also clarifies the timeline for implementation of the measure.

Detailed Summary

- Clarifies that exempted entities include certain federal grant recipients and certain behavioral health providers (regardless of whether they receive federal grants), etc.
- Specifies that the operative date for certain provisions, including those related to enforcement, is January 1, 2031

BACKGROUND:

The corporate practice of medicine doctrine is a body of laws and policies based on the idea that allowing non-physicians to make decisions about health care delivery could be ethically problematic for physicians and result in lower quality care for patients. The doctrine traces back to a code adopted by the American Medical Association in 1846 ([link](#) to The Corporate Practice of Medicine, Vanderbilt Law Review (1987)). By the early twentieth century, many states adopted laws prohibiting non-physicians to hold controlling stakes in health care practices. Oregon's corporate practice of medicine laws are encoded in [ORS § 58.375](#) through § 58.389. Over 30 states have some form of prohibition on the corporate practice of medicine.

Despite longstanding limitations on the corporate practice of medicine, scholars have identified ways in which non-physicians are able to own and control health care practices ([link](#) to Zhu et al, A Doctrine in Name Only (2023)). In some cases, a management services organization (MSO) may form a contract with a professional health care corporation, allowing the MSO to make decisions about delivery of care. In its informational hearings on September 27, 2023, the Senate Committee on Health Care heard testimony on these issues and their impact on quality of care ([link](#) to meeting materials).

Investor-owned delivery of care has attracted increased attention recently in response to the growing role of non-physicians, particularly private equity investors, expanding into health care markets. In Oregon, examples of this include UnitedHealth Group purchasing Oregon Medical Group ([link](#)) and trying to buy the Corvallis Clinic ([link](#)), and Amazon purchasing One-Medical ([link](#)).