

HB 4130 B STAFF MEASURE SUMMARY**Carrier:** Sen. Patterson**Senate Committee On Health Care****Action Date:** 02/26/24**Action:** Do pass with amendments to the A-Eng bill. (Printed B-Eng.)**Vote:** 3-2-0-0**Yeas:** 3 - Campos, Gorsek, Patterson**Nays:** 2 - Bonham, Hayden**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Daniel Dietz, LPRO Analyst**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 existing requirements 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 operations, 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
- Program of All-Inclusive Care for the Elderly (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

Requires holding companies to comply with requirements for professional corporations. Makes noncompetition, nondisclosure, and nondisparagement agreements void and unenforceable, with specified exceptions, beginning on the 91st following sine die. Remaining provisions become operative January 1, 2031.

ISSUES DISCUSSED:

- Ownership structures of various medical practices, including specialty care
- Exemptions from professional corporation requirements for certain kinds of practices
- Roles and relationships between MSOs and physicians practicing in Oregon
- Impacts to access to care including specialty types of care
- Operative date and regulatory role of the Oregon Health Authority beginning January 1, 2031

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EFFECT OF AMENDMENT:

Clarifies exemptions and effective dates.

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. Over 30 states have some form of prohibition on the corporate practice of medicine, including Oregon (see ORS 58.375 et seq).

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, *New England Journal of Medicine* (2023)). In some cases, a management services organization (MSO) may form a contract with a professional health care corporation that allows 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](#)).