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<https://olis.oregonlegislature.gov/liz/2024R1/Measures/Overview/HB4130>

February 25, 2024

Senate Committee on Healthcare
Oregon State Legislature

Dear Senators,

The Michigan State Medical Society (MSMS) commends you for taking up House Bill 4130 and strongly encourages your support. The passage of this bill will ensure that independent medical decisions between physicians and patients cannot be interfered with by unlicensed business decision-makers motivated solely by profit.

As you know, CPOM Doctrines are shaped by several broad concerns including the following:

- The commercialization of the practice of medicine.
- The overutilization and/or unnecessary ordering of medical services and tests.
- Unaligned or imbalanced obligations to shareholders over patients.
- Interference with the physician's independent medical judgment.
- The practice of medicine directly or indirectly by laypeople.
- Shareholder interests in profits damaging necessary confidential and professional physician-patient relationships.
- The impossibility of corporations to fulfill the licensing and ethical requirements demanded of physicians.

Of utmost concern are private equity groups that organize into management service organizations (MSOs) or physician management companies (PMCs) for ownership of the nonclinical assets of a medical practice. In an effort to comply with the technicalities of the CPOM Doctrine requiring physician ownership, they recruit a physician to be the owner of the PC or PLLC. This physician is subject to various restrictions on his/her ownership, which essentially eliminates any direction and control an owner of a PC or PLLC would normally have. Instead, the corporation vests all control of medical delivery and decision-making in the MSO or PMC, resulting in a "physician in name only," who is a captive of the MSO or PMC with no actual control over the delivery of healthcare. The reality in these situations is that the MSO or PMC controls all medical decisions. This model is particularly dangerous in healthcare as evidenced in a 2021 white paper by experts from UC Berkeley and the American Antitrust Institute - "when the fundamental characteristics of the private equity business model are combined with the unique structure of the United States healthcare market, the results are potentially catastrophic for patients, payers, and the long-term stability of the healthcare supply chain. And, because the consequences in healthcare involve not just dollars but lives, these potential harms must not be ignored."ⁱ

Your leadership on this issue can serve as a model to other states who are experiencing the similar harm to the health care system and patients caused by private equity organizations using legal

loopholes to circumvent respective Corporate Practice of Medicine (CPOM) Doctrines and the protections envisioned by those laws. Like physicians in Oregon, Michigan physicians are reporting increased concerns about threats to patient safety as they experience for-profit entities controlling the practice of medicine. Some of these concerns include 1) the use of “efficiency consultants” to reduce physician coverage to dangerously low levels; 2) coercing physician resignation after bringing patient safety concerns to corporate officials due to concerns regarding inadequate staffing and its effect on patient care; 3) firing physicians who question or refuse to comply with a corporate mandate that is in opposition to the ethical practice of medicine; and 4) private equity bankruptcies that leave communities without adequate health care coverage. Michigan experienced such a bankruptcy recently when American Physician Partners (APP), a private equity physician staffing firm, abruptly announced its closure in July. This action affected 21 emergency departments in Michiganⁱⁱ; leaving health systems scrambling to find new entities to provide coverage, uncovered payroll, and physicians without tail coverage. Unfortunately, this outcome is not surprising as private equity groups in healthcare end in bankruptcy at a higher rate than in any other market and the consequences fall on patients and physicians and other health care team members.

Passage of House Bill 4130 will help to protect physician autonomy in making medical decisions in the best interest of the patient, patient satisfaction, and safe employment conditions and care delivery.

Thank you for your consideration of our comments and support.

Sincerely,



Tom M. George, MD
Chief Executive Officer
Michigan State Medical Society

ⁱ Soaring Private Equity Investment in the Healthcare Sector: Consolidation Accelerated, Competition Undermined, and Patients at Risk. Accessed at <https://petris.org/soaring-private-equity-investment-in-the-healthcare-sector-consolidation-accelerated-competition-undermined-and-patients-at-risk/>.

ⁱⁱ <https://docs.google.com/spreadsheets/d/101GwgjNv-voMS-C127m8zvQKydt3VURqCXtKvj7J7Jw/edit#gid=2044866104>