

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 702
(A-24)

Introduced by: Organized Medical Staff Section

Subject: The Corporate Practice of Medicine, Revisited

Referred to: Reference Committee G

- 1 Whereas, primary interests of our American Medical Association include sustaining and
2 improving public health, as well as the sustainability of medical autonomy in practice; and
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4 Whereas, for decades, the AMA has maintained a policy that deems unprofessional any
5 contractual arrangement that interferes with physician practice and by so stating, bars
6 unlicensed lay entities from owning or controlling medical practices; and
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8 Whereas, in the current evolution of the healthcare system, increasingly corporate entities
9 including public companies and private equity firms have entered into the arena of healthcare
10 provision with ownership interests; and
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12 Whereas, those ownership interests have become controlling interests in the vast majority of
13 cases, despite most states maintaining laws against the corporate practice of medicine to one
14 degree or another^(1,2); and
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16 Whereas, there are a number of subterfuges by which lay entities get around restrictions against
17 the corporate practice of medicine, including but not limited to intermediate organizations known
18 as medical service organizations (MSOs) as well as “friendly private corporation (PC) models,”
19 wherein there is dual participation by a licensed physician in both the practice and the medical
20 service organization^(1,2); and
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22 Whereas, medical service organizations and other public entities include those of hospital care
23 based organizations, by virtue of medical management oversight, contracting intermediaries,
24 etc. have undue influence on the provision of healthcare by the physician to the patient,
25 essentially dictating type, amount and directions of care^(1,2); and
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27 Whereas, the justification that consolidation of care and control over clinical operations will
28 improve quality and reduce cost of giving healthcare is not substantiated, even contradicted, by
29 academic research to date⁽¹⁻³⁾; and
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31 Whereas, in some notable instances, private equity firms that focus on financial bottom line
32 outcomes increasingly resort to substitutions of physicians with nonphysician practitioners, as
33 well as creating environments where there is greater turnover even of physicians (sometimes
34 due to “moral burnout”), which has been shown to reduce the quality of healthcare¹; and
35
36 Whereas, our AMA Advocacy Resource Center posted an issue brief on the corporate practice
37 of medicine in 2015⁴; and
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39 Whereas, our AMA recently established policy (H-215.981) to “provide guidance, consultation,
40 and model legislation regarding the corporate practice of medicine...[and]...continue to monitor

1 the evolving corporate practice of medicine” but did not establish a mechanism to gather and
2 disseminate that information; and
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4 Whereas, there is renewed attention paid to the erosion of the firewall represented by the
5 original prohibition of the corporate practice of medicine in several recent studies and
6 articles^(1,2); therefore be it
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8 RESOLVED, that our American Medical Association revisit the concept of restrictions on the
9 corporate practice of medicine, including private equities, hedge funds and similar entities,
10 review existing state laws and study needed revisions and qualifications of such restrictions
11 and/or allowances, in a new report to our House of Delegates by Annual 2025 that will inform
12 advocacy to protect the autonomy of physician-directed care, patient protections, medical staff
13 employment and contract conflicts, and access of the public to quality healthcare, while
14 containing healthcare costs. (Directive to Take Action)
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Fiscal Note: Modest - between \$1,000 - \$5,000

Received: 4/17/2024

REFERENCES

1. Perspective: “A Doctrine in Name Only — Strengthening Prohibitions against the Corporate Practice of Medicine”; Jane M. Zhu, M.D., M.P.P., M.S.H.P., Hayden Rooke-Ley, J.D., and Erin Fuse Brown, J.D., M.P.H.; September 14, 2023, N Engl J Med 2023; 389:965-968, DOI: 10.1056/NEJMp2306904
2. Audio interview with Erin Fuse Brown, professor of law, on the role of corporate practice of medicine laws in a changing health care environment;
<https://www.nejm.org/action/showMediaPlayer?doi=10.1056%2FNEJMdo007232&aid=10.1056%2FNEJMp2306904&area=>
3. Utilization, Steering, and Spending in Vertical Relationships Between Physicians and Health Systems; Anna D. Sinaiko, PhD1; Vilsa E. Curto, PhD1; Katherine Ianni, BA2; et al Mark Soto, MA1; Meredith B. Rosenthal, PhD1 ;September 1, 2023; JAMA Health Forum. 2023;4(9):e232875. doi:10.1001/jamahealthforum.2023.2875
4. AMA Advocacy Resource Center
Issue brief: Corporate practice of medicine;
https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewjV56_U4dWBAXV-LfKFHUNPCggQFnoECA8QAQ&url=https%3A%2F%2Fwww.ama-assn.org%2Fmedia%2F7661%2Fdownload&usg=AOvVaw3l0sn8SPujJDC8-wyv9tsD&opi=89978449

RELEVANT AMA POLICY

Corporate Practice of Medicine H-215.981

1. Our AMA vigorously opposes any effort to pass federal legislation preempting state laws prohibiting the corporate practice of medicine.
2. At the request of state medical associations, our AMA will provide guidance, consultation, and model legislation regarding the corporate practice of medicine, to ensure the autonomy of hospital medical staffs, employed physicians in non-hospital settings, and physicians contracting with corporately-owned management service organizations.
3. Our AMA will continue to monitor the evolving corporate practice of medicine with respect to its effect on the patient-physician relationship, financial conflicts of interest, patient-centered care and other relevant issues.

Citation: Res. 247, A-91; Reaffirmed; Sunset Report, I-09; Reaffirmed: CMS Rep. 7, A-11; Modified: CMS Rep. 6, I-13; Reaffirmed: CMS Rep. 07, A-17; Modified Res. 713, A-18; Reaffirmed: CMS Rep. 11, A-19; Reaffirmed: CME Rep. 01, I-22

Corporate Practice of Medicine H-160.887

Our AMA acknowledges that the corporate practice of medicine: (1) has the potential to erode the patient-physician relationship; and (2) may create a conflict of interest between profit and best practices in residency and fellowship training.

Citation: CMS Rep. 2, I-22

Corporate Investors H-160.891

1. Our AMA encourages physicians who are contemplating corporate investor partnerships to consider the following guidelines:

- a. Physicians should consider how the practice's current mission, vision, and long-term goals align with those of the corporate investor.
- b. Due diligence should be conducted that includes, at minimum, review of the corporate investor's business model, strategic plan, leadership and governance, and culture.
- c. External legal, accounting and/or business counsels should be obtained to advise during the exploration and negotiation of corporate investor transactions.
- d. Retaining negotiators to advocate for best interests of the practice and its employees should be considered.
- e. Physicians should consider whether and how corporate investor partnerships may require physicians to cede varying degrees of control over practice decision-making and day-to-day management.
- f. Physicians should consider the potential impact of corporate investor partnerships on physician and practice employee satisfaction and future physician recruitment.
- g. Physicians should have a clear understanding of compensation agreements, mechanisms for conflict resolution, processes for exiting corporate investor partnerships, and application of restrictive covenants.
- h. Physicians should consider corporate investor processes for medical staff representation on the board of directors and medical staff leadership selection.
- i. Physicians should retain responsibility for clinical governance, patient welfare and outcomes, physician clinical autonomy, and physician due process under corporate investor partnerships.
- j. Each individual physician should have the ultimate decision for medical judgment in patient care and medical care processes, including supervision of non-physician practitioners.
- k. Physicians should retain primary and final responsibility for structured medical education inclusive of undergraduate medical education including the structure of the program, program curriculum, selection of faculty and trainees, as well as education and disciplinary issues related to these programs.

2. Our AMA supports improved transparency regarding corporate investment in physician practices and subsequent changes in health care prices.

3. Our AMA encourages national medical specialty societies to research and develop tools and resources on the impact of corporate investor partnerships on patients and the physicians in practicing in that specialty.

4. Our AMA supports consideration of options for gathering information on the impact of private equity and corporate investors on the practice of medicine.

Citation: CMS Rep. 11, A-19; Appended: CMS Rep. 2, I-22; Reaffirmed: BOT Rep. 14, A-23

Physician-Owned Hospitals D-215.983

1. Our American Medical Association will advocate for policies that remove restrictions upon physicians from owning, constructing, and/or expanding any hospital facility type.

2. Our AMA will study and research the impact of the repeal of the ban on physician-owned hospitals on the access to, cost, and quality of, patient care, and the impact on competition in highly concentrated hospital markets.

3. Our AMA will collaborate with other stakeholders to develop and promote policies that support physician ownership of hospitals.

Citation: Res. 219, A-23