**OKLAHOMA STATE MEDICAL ASSOCIATION HOUSE OF DELEGATES**

 **Resolution 7: A-2023**

**Introduced by: Tulsa County Medical Society and Diane M. Heaton, MD**

**Subject: Corporate Practice of Medicine (CPM)**

**WHEREAS,** the Corporate Practice of Medicine (CPM) has long been a concern in public policy regulating quality of patient care, because the responsibility and liability for the practice of medicine ultimately falls to the licensed physician. The CPM "doctrine" is based on state medical practice acts, which are statutes that list the qualifications needed to obtain a license to practice medicine and prohibit anyone without a valid license from practicing medicine. "Limitations on the rights, privileges, and powers of corporate and other artificial entities are intended to prevent unlicensed persons from interfering with or influencing the physician's professional judgment. The reasoning behind this intention is that corporations cannot have the training, education, and personal characteristics that are needed to receive a medical license. In addition, corporations are unable to develop the relationship of trust and confidence that is necessary for the relationship between a professional and patient or client...Establishing medicine as a profession is central to the prohibition on the corporate practice of medicine because of the requirements for physician licensure. States' medical practice acts require physicians to meet high standards of training and character in order to obtain licenses to practice medicine. Corporations cannot receive medical training and do not possess human qualities such as character and judgment, and therefore may not be licensed to practice medicine.”[[1]](#footnote-1); and

**WHEREAS**, 33 states currently have some kind of Corporate Practice of Medicine law that limits a corporation’s ability to direct medical decisions or override the medical judgment of a physician[[2]](#footnote-2); and

**WHEREAS,** Oklahoma’s lack of such a barrier has fostered the development of corporate entities that employ and mandate care of patients with a primary goal of profit which, in many cases, leaves the State of Oklahoma; and

**WHEREAS,** Title 59, Section 492 of the Oklahoma Statutes notes a hospital or related institution, including “any corporation, association, trust, or other organization organized for such purposes may employ a person who is duly licensed to practice medicine and this shall not be considered unprofessional conduct.”[[3]](#footnote-3) However, these statutes do not address the common practice of organizations limiting care by directing physicians’ ability to independently practice medicine, through such means as directing referrals and limiting prescription choices. These practices which clearly are a form of the practice of medicine and interfere with a physician’s ability to advocate for their patients are not addressed in the current Oklahoma statutes. The statutes only address the physician’s duty to care for their patients not the corporation’s duty not to interfere and hence practice medicine; and

**WHEREAS,** Title 18, Section 811 of the Oklahoma Statutes notes a professional entity may render professional services only through its owners, managers, employees and agents who are duly licensed in accordance with the provisions of this state's licensing laws to render professional services.[[4]](#footnote-4) This should preclude non-individuals such as corporations and for-profit corporations from directing care via limitations placed on duly licensed physicians by direct or indirect means that limit the physician’s best judgment; therefore, be it:

**RESOLVED,** The Oklahoma State Medical Association supports the clarification of the "Corporate Practice of Medicine" Doctrine in such a way as to clarify that the practice of medicine does not include corporate entities and shall:

1. Preserve independent clinical decision-making;
2. Provide protection to physicians who bring to light quality of care concerns arising out of an employment situation;
3. Prohibit non-compete clauses in physician-hospital employment contracts;
4. Require that medical staff and clinical privileges be considered separately from employment considerations;
5. Allow physicians to own hospitals and ambulatory care centers;
6. Limit the ability of corporations and for-profit entities to employ and direct the actions of the physicians.; and be it further

**RESOLVED,** The OSMA lobby team is authorized to work with state policymakers on any legislation or regulation that may be needed to clarify and regulate the Corporate Practice of Medicine

1. *The Corporate Practice of Medicine Doctrine*. Allegra Kim, for the California State Assembly Commission on Health, October, 2007. [https://docplayer.net/9712293-The-corporate-practice-ofmedicine-doctrine.html](https://docplayer.net/9712293-The-corporate-practice-of-medicine-doctrine.html)  [↑](#footnote-ref-1)
2. *Corporate Practice of Medicine Doctrine: Increased Enforcement on the Horizon?* Matt Wilmot, Wes Scott and Ethan Rosenfeld, for Nelson Mullins Idea Exchange. January 2023. https://www.nelsonmullins.com/idea\_exchange/blogs/healthcare\_essentials/enforcement/corporate-practice-of-medicine-doctrine-increased-enforcement-on-the-horizon [↑](#footnote-ref-2)
3. 59 O.S. 492. http://webserver1.lsb.state.ok.us/os/os\_59-492.rtf [↑](#footnote-ref-3)
4. 18 O.S. 811. http://webserver1.lsb.state.ok.us/os/os\_18-811.rtf [↑](#footnote-ref-4)