

# HOUSE BILL REPORT

## SHB 1620

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### As Amended by the Senate

**Title:** An act relating to abrogating the corporate practice of medicine doctrine.

**Brief Description:** Abrogating the corporate practice of medicine doctrine.

**Sponsors:** By House Committee on Health Care (originally sponsored by Representatives Dyer, Zellinsky, Cody, Skinner, Backlund and Sherstad).

**Brief History:**

**Committee Activity:**

Health Care: 2/11/97, 2/21/97 [DPS].

**Floor Activity:**

Passed House: 3/6/97, 94-0.

Senate Amended.

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### HOUSE COMMITTEE ON HEALTH CARE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Dyer, Chairman; Backlund, Vice Chairman; Skinner, Vice Chairman; Cody, Ranking Minority Member; Murray, Assistant Ranking Minority Member; Anderson; Conway; Sherstad; Wood and Zellinsky.

**Staff:** John Welsh (786-7133).

**Background:** The corporate practice of medicine— doctrine evolved from case law and was last enunciated in this state in *Morelli vs. Ehsam*, 110 Wn.2nd. 555 (1988). The court held that health practitioners cannot be employed by a corporation unless the entity has only those individuals licensed to render the same professional services as its shareholders, directors, and officers. The rationale for these rulings is that corporate nonprofessionals cannot direct the course of licensed medical care. In essence, the doctrine restricts the employment of these practitioners, the ownership of their practices, and the distribution of profits from the practice through corporate enterprises.

The doctrine found currency at a time when the customary practice of health care was largely based on individual practices utilizing a fee-for-service system of reimbursement. The health market place today is characterized by managed care,

capitated provider contracting, and a push toward multi-specialty integrated group practices.

The Legislature affirmed the doctrine with the enactment of a law authorizing the formation of professional service corporations– that permits some regulated health professionals to render their services for pecuniary profit in association with the same or other health professionals.

The court-made corporate practice of medicine– doctrine is part of the common law– of this state, which is to be distinguished from law enacted by the Legislature. Legislative enactments that depart from the common law are usually narrowly construed by the courts. The ruling affirms however that the Legislature must authorize the corporate practice of a health profession.

**Summary of Bill:** The corporate practice of medicine doctrine is fully abrogated for all health professions practitioners except dentistry and veterinary medicine, and this abrogation is to be liberally construed by the courts. As such, health practitioners may use any lawful type of business organization to provide health care services, including professional service corporations or similar limited liability companies or partnerships.

References to physicians and osteopathic physicians are technically included among those regulated health professions which may associate together in forming single professional health service corporations or similar professional limited liability companies or partnerships.

The abrogation of the corporate practice of medicine doctrine does not affect the ethical obligation of health care practitioners, nor require them to violate any federal, state or local laws.

**EFFECT OF SENATE AMENDMENT(S):** The Senate amendment removes the emergency clause and changes the effective date to January 1, 1997.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The current competitive marketplace in health care is characterized by multi-specialty integrated practices. The antiquated doctrine against corporate organizations has already been superseded by the corporate practices of hospitals, health maintenance organizations and professional service corporations.

**Testimony Against:** None.

**Testified:** Andy Dolan, Washington State Medical Association (pro); Jeff Larsen, Washington Osteopathic Medical Association; and Gail McGaffick, Washington State Psychological Association (pro).