

SENATE BILL REPORT

SB 5387

As of February 6, 2025

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

Brief Description: Concerning the corporate practice of medicine.

Sponsors: Senators Robinson, Hasegawa, Liias, Nobles, Riccelli, Stanford and Valdez.

Brief History:

Committee Activity: Health & Long-Term Care: 2/07/25.

Brief Summary of Bill

- Prohibits the corporate practice of medicine except through a professional service corporation or limited liability company.
- Prohibits individuals not licensed to practice medicine from interfering with the clinical decision-making of health care providers providing care at licensed facilities.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Greg Attanasio (786-7410)

Background: The corporate practice of medicine doctrine provides that, absent legislative authorization, a business entity may not employ health care providers to practice their licensed professions. The Washington State Supreme Court has found that a person or entity practices a profession by either directly engaging in statutorily defined conduct or by employing a licensed individual to engage in such conduct, and has found corporations who employee licensed providers are engaging in the unauthorized practice of medicine. The Court has suggested that the doctrine does not prevent an unlicensed entity from hiring a licensed provider as an independent contractor rather than as an employee.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

State statute allows an individual or group of individuals who are licensed to practice a health profession to form a professional services corporation to render the same professional services and become a shareholder or shareholders of that corporation. Statute also allows certain health professions to render their individual professional services through a single professional service corporation. Formation of a professional service corporation does not restrict the application of the Uniform Disciplinary Act (UDA) to those health care providers.

Statute allows a person or group of persons duly licensed or otherwise legally authorized to render the same professional services within this state and may form and become a member or members of a professional limited liability company for the purposes of rendering professional service. A professional limited liability company is subject to all the provisions that apply to a professional services corporation. Formation of a professional limited liability company does not restrict the application of the Uniform Disciplinary Act (UDA) to those health care providers.

The UDA provides a legal and policy framework for the regulation and oversight of health care providers by the relevant disciplining authorities for each health care profession. Under the UDA, disciplining authorities have the authority to investigate all complaints or reports of unprofessional conduct, as defined under the UDA. Upon a finding, after a hearing, that a license holder has committed unprofessional conduct, the disciplining authority is required to issue an order including appropriate sanctions.

Summary of Bill: Professional Service Corporations. Except through the formation of a limited liability company or professional services corporation, it is unlawful for an individual, corporation, partnership, or any other entity without a license to practice medicine, own a medical practice, employ licensed health care providers, or otherwise engage in the practice of medicine.

In a professional service corporation organized for the purpose of establishing a medical practice, health care providers licensed in this state must:

- hold the majority of each class of shares that are entitled to vote;
- be a majority of the directors; and
- hold all officer positions in the corporation except for secretary and treasurer.

Majority shareholders must exhibit meaningful ownership of a medical practice by being present in the state and substantially engaged in delivering care and managing the practice.

A shareholder, director, or officer of a medical practice organized under this chapter may not:

- own or control shares in, serve as a director or officer of, be an employee of or an independent contractor with, or otherwise participate in managing both the medical practice and a management services organization with which the medical practice has a contract;

- receive substantial compensation or remuneration from a management services organization in return for ownership or management of the medical practice;
- transfer or relinquish control over the sale, the restriction of the sale, or the encumbrance of the sale of the medical practice's shares or assets;
- transfer or relinquish control over the issuing of shares of stock in the medical practice, a subsidiary of the medical practice, or an entity affiliated with the medical practice, or the paying of dividends; or
- enter into any financial arrangement constituting rebating, in violation of state law.

A shareholder, director, or officer of a medical practice may not relinquish control over or otherwise transfer de facto control over any of the medical practice's administrative, business, or clinical operations that may affect clinical decision making or the nature or quality of medical care that the medical practice delivers by means of a contract or other agreement or arrangement. This includes, but is not limited to:

- hiring or terminating, setting work schedules and compensation, or otherwise specifying terms of employment of employees who are licensed to practice medicine in this state;
- the disbursement of revenue generated from provider fees and other revenue generated by provider services;
- collaboration and negotiation with hospitals and other institutions with which a licensed health care provider employed by the medical practice may deliver clinical care, particularly with regard to controlling a provider's schedules as a means of discipline;
- setting staffing levels, or specifying the period of time a provider may see a patient, for any location that serves patients;
- making diagnostic coding decisions;
- setting clinical standards or policies;
- setting policies for patient, client, or customer billing and collection;
- setting the prices, rates, or amounts the medical practice charges for a provider's services; or
- negotiating, executing, performing, enforcing, or terminating contracts with third-party payors or persons that are not employees of the medical practice.

Facilities Regulation. No person without a license to practice medicine in this state, who is employed by, contracted with, or affiliated with a hospital, private establishment, or ambulatory surgical facility, may interfere with, control, or otherwise direct the professional judgment or clinical decisions of a licensed health care provider employed by, affiliated with, or contracted with the hospital, private establishment, or ambulatory surgical facility, who is providing care to a patient at the hospital, private establishment, or ambulatory surgical facility. Prohibited conduct includes, as applicable, but is not limited to, controlling, either directly or indirectly, through policy, discipline, punishment, threats, adverse employment actions, coercion, retaliation, or excessive pressure:

- the period of time a provider may spend with a patient;
- the period of time within which a health care provider must discharge a patient;

- the clinical status of the patient;
- the diagnoses, diagnostic terminology, or codes that are entered into the medical record by the health care provider;
- the range of clinical orders available to a health care provider; or
- any other action specified by rule to constitute impermissible interference or control over the clinical judgment and decision making of a health care provider related to the diagnosis and treatment of a patient.

No person without a license to practice medicine in this state, who is employed by, contracted with, or affiliated with a nursing home, birthing center, or hospice care center, may interfere with, control, or otherwise direct the professional judgment or clinical decisions of a licensed health care provider employed by, affiliated with, or contracted with the nursing home, birthing center, or hospice care center, who is providing care to a resident or patient of the nursing home, birthing center, or hospice care center.

Unprofessional Conduct. A violation of the provisions of this act constitutes unprofessional conduct under the UDA.

Physicians, osteopathic physicians, nurses, acupuncture and Eastern medicine practitioners, mental health counselors, marriage and family therapists, social workers, chiropractors, dentists, dental hygienists, naturopaths, birth doulas, midwives, optometrists, ocularists, occupational therapists, pharmacists, physician assistants, physical therapists, psychologists, massage therapists, dietitians, substance use disorder professionals, and genetic counselors must upon application for a license or license renewal, attest that they are aware of regulations related to the corporate practice of medicine included in this act.

Appropriation: None.

Fiscal Note: Requested on January 24, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.