

WASHINGTON STATE MEDICAL ASSOCIATION
HOUSE OF DELEGATES

Subject: C-3 Fair Process for Employed Physicians

Introduced by: Yakima County Medical Society

WHEREAS, the physician's primary duty is to apply the scientific knowledge of the profession and to advocate for improved patient outcomes. The physician-patient relationship engenders unique motivation for that advocacy, which cannot be experienced by individuals who are not involved in the patient's clinical care, and

WHEREAS, responsibility and liability for standard of practice ultimately falls to the licensed physician alone. Corporate Practice of Medicine (CPM) is illegal under current Washington law¹, although corporate employment of physicians has not been aggressively contested. CPM statutes were intended to protect the public from interference in the practice of medicine by unlicensed individuals², and

WHEREAS, the financial incentives of health care entities can conflict with patient interests and the duty of their employed physicians, and

WHEREAS, the recent \$2.5 million settlement for *Dr. Ramon Añel of Tacoma vs. Franciscan Medical Group (FMG) and Catholic Health Initiatives (CHI)* documents wrongful discharge, defamation, and malicious prosecution of a physician without regard to a long record of patient service³⁴, and

WHEREAS, the Health Care Quality Improvement Act of 1986 bars physicians from civil suit to recover damages caused by dishonest hospital peer review. This hospital immunity was created

¹ **RCW 19.68**

<http://apps.leg.wa.gov/rcw/default.aspx?cite=19.68>

² **Corporate Practice of Medicine**, Health Law Resources

<https://www.healthlawyers.org/hlresources/Health%20Law%20Wiki/Corporate%20Practice%20of%20Medicine.aspx>

³ **Tacoma doctor settles wrongful-firing case for \$2.5 million**, Adam Lynn. *The News Tribune*, Dec 4, 2015.

<http://www.thenewstribune.com/news/local/article48099685.html>

⁴ **Washington Physician Represented by The Blankenship Law Firm Receives \$2.5 Million in Case Against Catholic Health Initiatives**, The Blankenship Law Firm

<http://www.blankenshiplawfirm.com/washington-physician-represented-by-the-blankenship-law-firm-receives-2-5-million-in-case-against-catholic-health-initiatives/>

with the assumption that good quality peer review would incisively differentiate safe from sub-standard physician performance, and that unsafe physicians could be permanently tracked by the National Practitioner Data Base, and by state medical boards (MQAC). Employment terminations without fair and due process subvert and make meaningless the HCQIA, and

WHEREAS, in 2015, the WSMA House of Delegates passed Resolution B-1, directing that *“WSMA will advocate for fair process protections for employee physicians, in accordance with WSMA Fair and Professional Peer Review Policy”* and that *“retaliation for reasonable advocacy for patient interests should be expressly forbidden”*⁵, and

WHEREAS, WSMA has established Principles for Fair Employment of Physicians which distinguishes “at-will termination” and “peer review”, and [There is not yet a link available to this document]

WHEREAS, the American Medical Association has established a detailed policy which supports the right of employed physicians to fair peer review in evaluation of clinical performance⁶, and

WHEREAS, in California, Health and Safety Code section 1278.5 *“encourage[s]...medical staff...to notify government entities of suspected unsafe patient care...in order to protect patients and...ensur[e] that health care is safe”*. This statute prohibits retaliation against employed physicians for advocating for patient care (whistleblowing).⁷

Therefore, be it ...

RESOLVED, the WSMA will write, and find legislative sponsors to introduce into the 2017 Washington Legislature, a whistleblower protection statute comparable to California Health and Safety Code section 1278.5. [Directive to Take Action]

⁵ **WASHINGTON STATE MEDICAL ASSOCIATION OFFICIAL ACTIONS OF THE 2015 HOUSE OF DELEGATES**

<https://www.wsma.org/house-of-delegates>

⁶ **AMA Principles for Physician Employment**, 2012 Interim Meeting of the AMA House of Delegates (Board of Trustees Report 6)

<http://www.ncmedsoc.org/wp-content/uploads/2013/09/ama-principles-for-physician-employment.pdf>

⁷ **California Health and Safety Code Section 1275-1289.5**

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=01001-02000&file=1275-1289.5>

