

WASHINGTON STATE MEDICAL ASSOCIATION  
HOUSE OF DELEGATES

Resolution: C-5  
(A-21)

Subject: Corporate Interference with the Practice of Medicine

Introduced by: Kay Funk, MD, Delegate  
Yakima County Medical Society

Referred to: Reference Committee C

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1 WHEREAS, in January 2019, the closure of Astria Yakima Hospital caused many physicians to  
2 leave the community and decreased patient access to healthcare in Yakima<sup>1,2</sup>; and

3  
4 WHEREAS, during the 2021 legislative testimony for HB 1272 - *Concerning Health System*  
5 *Transparency*<sup>3</sup>, the Astria Hospital closure was specifically cited by legislators. That bill was  
6 passed into law, amending RCW 43.70 and 70.41; and

7  
8 WHEREAS, Yakima County legislators authorized the legislative Office of Program Research  
9 to draft H-0301.1 *Increasing Accountability for Nonprofit Hospitals and Health Care Services*  
10 *Corporations*<sup>4</sup> to address the root causes of the Astria closure, though the bill was not introduced  
11 in the legislative session. The provisions include:

- 12  
13 1. Department of Health survey of licensed health professionals on the quality of  
14 care within their institutions  
15 2. Increased financial disclosure for 501(c)3 hospitals  
16 3. Defense against interference with the practice of medicine by unlicensed individuals,  
17 following the language of 2017 SB 5322 *Concerning Agreements Between Dentists*  
18 *and Third Parties That Provide Supportive Services to Dentists*  
19 4. Peer review for employed physicians facing termination or sanction; and  
20

21 WHEREAS, the corporate practice of medicine (CPM) has long been a concern in public policy  
22 regulating quality of patient care, because the legal responsibility and liability for the practice of  
23 medicine ultimately falls to the licensed physician. The CPM “doctrine”

24  
25 *is based on state medical practice acts, which are statutes that list the qualifications*  
26 *needed to obtain a license to practice medicine, and prohibit anyone without a valid*  
27 *license from practicing medicine...Limitations on the rights, privileges, and powers of*  
28 *corporate and other artificial entities are intended to prevent unlicensed persons from*  
29 *interfering with or influencing the physician's professional judgment. The reasoning*  
30 *behind this intention is that corporations cannot have the training, education, and*  
31 *personal characteristics that are needed to receive a medical license. In addition,*  
32 *corporations are unable to develop the relationship of trust and confidence that is*  
33 *necessary for the relationship between a professional and patient or*  
34 *client...Establishing medicine as a profession is central to the prohibition on the*  
35 *corporate practice of medicine because of the requirements for physician licensure.*  
36 *States' medical practice acts require physicians to meet high standards of training and*  
37 *character in order to obtain licenses to practice medicine. Corporations cannot receive*  
38 *medical training and do not possess human qualities such as character and judgment,*  
39 *and therefore may not be licensed to practice medicine; and*  
40

41 WHEREAS, in *Columbia Physical Therapy, Inc. v Benton Franklin Orthopedic Assocs., PLLC*,  
42 the Supreme Court of Washington reconfirmed; and

1           *"the commercialization of professions would destroy professional standards and that*  
2           *the duties of professionals to their clients are incompatible with the commercial interests*  
3           *of business entities.";* and  
4

5       WHEREAS, the US Internal Revenue Service grants tax free status to public charities  
6       (501(c)(3)s), on the condition that a *"tax exempt organization serves a public interest, not a*  
7       *private interest"*. There is a specific prohibition on "inurement" of "insiders who have decision  
8       making authority, such as officers, directors, or key employees.<sup>7</sup> However, if the Board of  
9       Trustees fails to exercise due diligence in preventing inurement of insiders, there is no other  
10       accountability; and

11  
12       WHEREAS, in *Romney, et. al. v. Franciscan Medical Group, et. al.*, the employer hospital  
13       capriciously used "at will" employment prerogatives and violated their own internal  
14       procedures in terminating two physician whistleblowers<sup>8 9</sup>. The arbitrator for the court has  
15       created a helpful precedent by favorably weighing the public policy interest of safe patient  
16       care against "at will" employment. This is the second physician wrongful termination case  
17       decided against Franciscan<sup>10</sup>

18  
19           *"According to public statements, TeamHealth and PeaceHealth St. Joseph Medical*  
20           *Center have terminated Dr. Ming Lin. If this is so, AAEM condemns TeamHealth and*  
21           *PeaceHealth St. Joseph Medical Center for terminating Dr. Ming Lin, an emergency*  
22           *physician who went public with his concerns over the safety of the hospital staff and*  
23           *his patients in this pandemic. It is an essential duty of a physician to advocate for the*  
24           *health of others. Dr. Lin, as a member of the medical staff, is entitled to full due*  
25           *process and a fair hearing from his peers on the medical staff. TeamHealth, a lay*  
26           *corporation owned by the private equity company the Blackstone Group, should not*  
27           *be the employer of Dr. Lin according to the laws of the state of Washington. Their*  
28           *hand in this termination is not only inexcusable but likely impermissible. We call on*  
29           *the WA state Attorney General and the State Board of Medicine to investigate this*  
30           *circumstance."*<sup>11</sup>

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32       Litigation of this and similar cases will weigh the public policy interest of workplace safety  
33       against "at will" employment<sup>12</sup>; and

34  
35       WHEREAS, TeamHealth, "a lay corporation owned by the private equity company the  
36       Blackstone Group"<sup>13</sup> was also the employer of Yakima emergency physician Matt Seaman, MD,  
37       who died by suicide after inappropriate harassment by the Washington Medical Commission;  
38       and

39  
40       WHEREAS, in the 2017 Washington legislature, SB 5322 *Concerning Agreements Between*  
41       *Dentists and Third Parties That Provide Supportive Services to Dentists*, (Sen. Curtis King; R,  
42       Yakima) passed unanimously in both houses, indicating that our legislators have a strong  
43       concern for protecting the public from conflict of interest inherent in corporate practice  
44       controlled by unlicensed individual<sup>14</sup>; and

45  
46       WHEREAS, in the 2019 Washington legislature, HB 1049 *Concerning Health Care Provider*  
47       *And Health Care Facility Whistleblower Protections* passed unanimously in both houses,  
48       indicating that our legislators strongly encourage physicians to report substandard care and  
49       interference with the practice of medicine<sup>15</sup>; and

50  
51       WHEREAS, hospital use of "at will" employer prerogatives and "not for cause" termination of  
52       physicians undermines the protections intended by the Healthcare Quality Improvement Act of  
53       1986. Administrators of these entities are not private owners, but trustees for a public service



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