

The Corporate Practice of Medicine in a Changing Healthcare Environment

Prepared for the Senate Committee on Business,
Professions and Economic Development

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The Corporate Practice of Medicine Ban

- What is the ban?
- How more or less similar to other states are California's practices?
- How effective is the ban in meeting its goals?



“The policy is intended to prevent unlicensed persons from interfering with or influencing the physician's professional judgment.”

– Medical Board of California



PAINLESS PARKER'S MESSAGE
 TO ALL TACOMA AND VICINITY

HARKEN!

TO
The Voice of the Tooth

"I AM the human tooth---the most valuable and necessary human possession. From the time I first push my way through the tender gums of the teething infant until the dying embers of the fire of life tell me that I am no longer needed, my worth is inestimable.

"I F I am cleanly kept and rightly taken care of I give both health and beauty to my owner, but if I am neglected and allowed to decay I will cause pain. That is my warning and I will sound it daily.

"I WILL cause misery to my owner. I will produce countless scores of ills that will be blamed on everything-but me.

"BUT I am the cause and I will throb, jump and ache until my cry is heeded.

"TEMPORARY relief and panaceas only hasten my destruction. While trying to ignore my condition will make my owners nervous, irritable and restless.

"I F at the first sign of decay you will take me to a man who knows me---who studies my needs and understands me, I can be made right again and the cost will be small. At no stage of my going am I hopeless, but the longer my owner waits the more pain and discomfort he has to endure and the operations necessary to save me in the final stages are sure to increase the cost.

PAINLESS PARKER DENTIST
 PHONE MAIN 1414

1019 Pacific Avenue . . . Drury Building
 — AND AT —
 Portland, Salem, Oregon--Brooklyn, N. Y.--San Francisco, Los Angeles, Oakland,
 San Diego, Fresno, San Jose, Sacramento and Bakersfield, California.



Left: Painless Parker newspaper ad (1916)
 Above: Painless Parker (circa 1952)

“The state’s licensee shall possess consciousness, learning, skill and good moral character, all of which are individual characteristics, and none of which is an attribute of an artificial corporation.”

- Parker v Board of Dental Examiners (1932)



Exemptions to the Ban

- Professional Medical Corporations
- Teaching clinics and hospitals (UC health system, CA's three private medical schools)
- Nonprofit Community Clinics
- County Hospitals
- State Agencies
- Nonprofit Research Clinics
- Narcotic Treatment Programs
- Specialty Pediatric Hospitals
- Health Maintenance Organizations (HMOs)
- Certain Charitable Institutions/Foundations Clinics (possible, but Medical Board has never made exemption)



Quantifying the Exemptions

- Estimate at least 30% (21,000+) of active physicians are employed through an exemption. (Likely higher)
 - Caveats (large):
 - Does NOT include (data unavailable)
 - Professional medical corporations except for Kaiser
 - County hospitals
 - Nonprofit research clinics (likely fairly small)
 - Five of eight pediatric hospitals (the other three contract w/physicians)
- For Comparison
 - Approx. 71,000 active physicians in CA (2014)
 - ~45% in Solo or Small Partnerships (2 to 9 physicians) (95% confidence, 2015 UC San Francisco Study)



California Compared to Nation

- More than half of states clearly prohibit the corporate practice
 - Number and scope of exemptions vary
 - Enforcement varies
- 28 states allow hospitals to employ physicians
- Since 2007 CRB report, OH and TX have lessened the ban; MN and MA have strengthened it



Is the Ban Meeting its Goals?

“[it] is meant to protect patients...”

- Physicians Service v. Aoki Diabetes Research Institute (2008)

The ban accomplishes this by preserving the independent medical judgment of physicians.



Alignment Strategies

Primary Types

- Medical Foundations
- Hospital Outpatient Departments
- Hospitals Purchasing Medical Practices

Benefits/Challenges

- Can result in more integrated care for patient
- Does not necessarily improve patient outcomes
- Requires capital, large enough hospitals; difficult for rural/low-capitalized



What Creates Bias in Decision-making?

Researchers point to three types of conflicts:

- Self-referrals for office services and physician-owned centers;
- Government and private insurer incentives and reimbursement models, including employee salaries and bonuses; and
- “The largess provided by the drug and device industries.”



Role of Financial Incentives

- All three scenarios create “financial relationships [that] bias physician decisions to different degrees...”
- Financial incentives are not driving physicians’ decisions, but that they “do play a role [alongside] patient needs and other factors.”

Roberston, Christopher, et al. “Effect of Financial Relationships on the Behaviors of Health Care Professionals: A Review of the Evidence,” *Journal of Law, Medicine and Ethics*, vol. 40 no 452 (Fall 2012).



Physicians' Views on Autonomy

Longitudinal data from 1996-2005.

- Logistic-based decisions (adequate time w/ patients)
 - Physicians in larger practices report less autonomy than those in smaller practices
- Knowledge-based decisions (requires specialized knowledge)
 - Physicians in larger practices report more autonomy than those in smaller practices
- No association between salaried status and reported levels of autonomy in clinical decisions



Options

- Contours:
 - Eliminate the employment ban and replace it with law that states employers may not interfere
 - Strengthen the employment ban and eliminate some of the exemptions
- Inside the lines:
 - Develop policy for reviewing exemptions
 - Increase patient access to data about physician-hospital relationships; hospital quality/care metrics
 - Fill in missing research

