



February 28, 2024

Hon. Deb Patterson  
Chair, Senate Committee on Health Care  
Senator, District 10  
Oregon State Legislature  
900 Court St. NE,  
Salem, OR 97301  
[Sen.DebPatterson@oregonlegislature.gov](mailto:Sen.DebPatterson@oregonlegislature.gov)

**RE: ATA ACTION OPPOSITION TO HOUSE BILL 4130**

Dear Chair Patterson and members of the Senate Committee on Health Care,

On behalf of ATA Action and the over 400 organizations we represent, I am writing to express serious concerns about House Bill 4130 and the significant unintended consequences that will result without additional discussion and the further refinement that this legislation warrants.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA and ATA Action's members include numerous entities who have built and deployed new and affordable models of care delivery that are currently serving thousands of Oregon patients and addressing the state's significant workforce shortages. Our members have brought Oregon residents high-quality healthcare services when and where they need it in fields where innovation is desperately needed, like reproductive health, substance use disorder treatment, gender-affirming care, chronic condition management, and behavioral health.

ATA Action has significant concern that House Bill 4130 ("the Act") threatens patients' access to these care models in how it seeks—at its core—to upend and prohibit how many of our members (and entities throughout the country) compliantly structure relationships with lay entities for business operations, non-physician expertise, and investment. First, ATA Action believes the prohibition (Section 1 (3)(a)(A)) on medical corporations from entering into any relationships which include succession agreements will significantly chill investment into the health care innovation sector and in physician practices that are facing increasing cost pressures. As legal commentators have highlighted,<sup>1</sup> physician practices seeking to attract investment will

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<sup>1</sup> Dale C. Van Demark, Esq. et al., *Pending Oregon Law Undermines Traditional Physician Practice Structure*, McDermott, Will & Emery (Feb. 16, 2024), <https://www.mwe.com/insights/pending-oregon-law-undermines-traditional-physician-practice-structure/>.



Telehealth Policy to Transform Healthcare

find doing so challenging if investors have no safeguards to limit financial risk or do not have a voice in the leadership of the medical group they are supporting and helping to grow.

Second, ATA Action has concerns that the Act bans any shareholder or director of the medical corporation from having any contractual relationship or holding any shares in the contracted MSO (Section 1(1)(f)(A)). Rather than physicians being totally detached and isolated from the MSO infrastructure supporting and helping to grow the medical practice, many telehealth entities have found that having a physician affiliated with both the medical corporation and the MSO improves decision making, provides direct and open lines of communication, and leads to heightened patient and provider satisfaction. By eliminating the ability for Oregon licensed practitioners to continue as both practitioners within their clinics and as in-house advisors to their contracted MSOs or telehealth platforms, House Bill 4130 would prohibit, or at best significantly frustrate, the ability for these MSOs to understand the effects their business decisions can have on the patients who seek care through their affiliated medical practices as well as the needs of providers who use the telehealth platform to deliver high quality services.

ATA Action appreciates and supports the Act's exemption for entities that exclusively provide telehealth services from these problematic aspects of the legislation. This exemption, however, will not apply to our members who, even if primarily offering telemedicine services, maintain a brick-mortar location so that they can provide a holistic range of services. This flexibility for "hybrid care" becomes more important as the DEA may commit to requiring telemedicine providers to conduct an in-person examination when prescribing controlled substances—including those who treat gender-affirming care or mental health conditions—at the end of this year.<sup>2</sup> The telehealth exemption would make it impractical for these telehealth providers to expand their offerings to in-person care services in Oregon where clinically appropriate or required. ATA Action believes that state health policy must be technology, modality, and site-neutral and requests that any amendment to exempt telehealth entities include those with a physical presence in the state.

Further, much of the support for the legislation has focused on national entities, such as large-scale investor acquisition of institutional medical practices, on specific care settings like emergency care. It bears emphasis that the mandates in this legislation apply to *every* medical practice and will asymmetrically disadvantage smaller organizations and clinics. Many of our members are emerging entities specializing in niche practice areas like substance use treatment, gender affirming care and reproductive health services or are focused on specific patient populations, including the underinsured or Medicaid beneficiaries. These smaller organizations cannot afford the same level of legal planning and restructuring fees larger entities will be capable of absorbing to accommodate the significant changes proposed here. ATA Action fears the overwhelming effect of this legislation will be less investment in, and more pressure on, smaller entities that deliver care and ultimately less access for Oregon patients.

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<sup>2</sup> Indeed, this already is the federal law on telemedicine prescribing; however, the ability to prescribe controlled substances without an in-person visit continues under a COVID-19 era waiver set to expire at the end of the year.



ATA Action agrees with the sponsors' overall intent of this Act to ensure that providers have control over their clinical decisions, while also recognizing the instances in our healthcare system where non-physician entities and investors have improperly crossed the line into patient care. The solution to these well-meaning goals, however, is not to hastily implement this broad and onerous Act with untested concepts that will—whether intended or not—restrict the growth and development of innovative care models to Oregon patients. Now is not the time to enact barriers to care. Rather, we encourage the Legislature and the Sponsor to continue to work with affected stakeholders on a framework that more narrowly addresses the problem at hand, provides entities with clarity on how the requirements can be practically applied, and considers where enforcement of existing regulation could serve as an alternative pathway to ensure provider independence in delivering patient care.

ATA Action thanks you for your time and interest in telehealth. If you have any questions or would like to discuss further the telehealth industry's perspective, please contact me at [kzebley@ataaction.org](mailto:kzebley@ataaction.org).

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", is written over a light gray circular stamp.

Kyle Zebley  
Executive Director  
ATA Action