



MEMORANDUM

To: Rep. Rob Nosse, Chair
Rep. Cyrus Javadi, Vice Chair
Rep. Travis Nelson, Vice Chair
Members of the House Committee on Behavioral Health and Health Care

From: Mark Bonanno, General Counsel and Vice President of Health Policy

Date: May 1, 2025

Re: OMA Comments on SB 951 A-Engrossed

The Oregon Medical Association (OMA) represents and advocates for more than 7,000 physicians, physician associates, medical and PA students across Oregon. Our mission is to support our members in their efforts to practice medicine effectively, improve the health of Oregonians, and provide the highest quality patient care.

We appreciate the opportunity to provide testimony in support of Senate Bill 951 A-Engrossed. The OMA has long-supported efforts to better enforce Oregon's corporate practice of medicine doctrine. We value Representative Bowman's leadership and continued willingness to work through amendments to ensure we do no harm to Oregon's medical clinics and clinicians.

Physician Noncompetition Agreements

The OMA formed a task force on the corporate practice of medicine in 2024 and developed a series of key principles about supporting the independence of physician medical decision-making that protects patient access to quality care. One key principle is that the OMA does not support the continued widespread use of physician and physician associate noncompetition agreements.

The SB 951 A-Engrossed tries to work out a level playing field for all medical licensees no matter where they are employed. The general rule will be that noncompetes are no longer permitted with some limited exceptions based upon clinic ownership rights, new hires invested in by a clinic and some independent medical clinics. Again, we will need to monitor the effect of both the ban and the exceptions to ensure that there is no longer widespread use of noncompetes for medical licensees in Oregon.

Exceptions to the Corporate Practice of Medicine Doctrine

We know that hospital ownership is rapidly evolving too and that private equity interests are looking to buy distressed hospitals. Some hospitals in other states have even had the real estate they owned sold out from under them which led to hospital bankruptcies. The management services organization (MSO) restrictions in SB 951 A-Engrossed do not apply to hospitals or hospital-affiliated clinics so those safeguards would not be in place. The Legislature must continue to monitor private equity activity in Oregon and be prepared to revisit this issue with additional safeguards should private equity backed ownership of hospitals or hospital-affiliated clinics lead to abuse of this exception to the corporate practice of medicine doctrine.

Management Services Organizations

There is nothing inherently wrong with an organization that desires to manage a medical clinic. Providing access to management expertise and capital for equipment and technology upgrades to a medical clinic is a good thing.

We acknowledge SB 951 A-Engrossed is complex. Our reading is that MSOs may indeed bring administrative, business, and clinical efficiencies to a medical clinic, but any sort of control over those efficiencies must not affect the medical decision-making or the quality of medical care. We support that concept 100%.

How do the MSO restrictions impact physicians? Well, if a physician has no ownership or employment relationship with an MSO, the MSO restrictions are only applicable to the MSO not the physician. Further, the bill contemplates that an individual physician may have an interest in their medical clinic and an incidental interest in an MSO.

Because there is a wide-variety of business structures involving medical clinics and MSOs, the Legislature should monitor the MSO restrictions to ensure the bill achieves its intended goal.

Enforcement of Anticompetitive Conduct in Health Care

SB 951 A-Engrossed permits a medical licensee or professional medical entity to bring an action against an MSO if the MSO inappropriately encroaches on clinical decision-making and the quality of medical care. We recognize that is a form of enforcement limited to private parties without state oversight.

In addition to the bill, we continue to urge our Oregon Attorney General to monitor activity of bad actors in health care that attempt to profit off of medical practice acquisition and control to the detriment of patient care. Activity that reduces access to care, results in higher prices, and

provides less quality service is, in our view, anticompetitive conduct. Existing state law permits the Attorney General to provide confidential protection to physicians who come forward and report on abuses so that a state investigation and prosecution under state antitrust statutes could address existing conduct and deter potential future abuses.

Restoration of a Healthier System of Care

Finally, it is important to note that this discussion is only one part of additional work needed to ensure the stability of medical clinics that have never recovered from the stresses placed on them in recent years and which make them vulnerable to closure or a buyout by larger corporate interests. The OMA looks forward to working with this Legislature on monitoring the impacts of the bill, making future adjustments as needed, and working on other concepts to help support our healthcare workforce and ensure access by patients to quality medical care.

The Oregon Medical Association (OMA) is the state's largest professional organization engaging in advocacy, policy, and community-building for Oregon's physicians, physician associates, medical students, and physician associate students. The OMA's members speak with one voice as they advocate for policies that improve access to quality patient care, reduce administrative burdens on medical professionals, and improve the health of all Oregonians. Additional information can be found at www.theOMA.org.