

SENATE BILL REPORT

SHB 1620

As Reported By Senate Committee On:
Health & Long-Term Care, March 28, 1997

Title: An act relating to abrogating the corporate practice of medicine doctrine.

Brief Description: Abrogating the corporate practice of medicine doctrine.

Sponsors: House Committee on Health Care (originally sponsored by Representatives Dyer, Zellinsky, Cody, Skinner, Backlund and Sherstad).

Brief History:

Committee Activity: Health & Long-Term Care: 3/27/97, 3/28/97 [DP].

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass.

Signed by Senators Deccio, Chair; Wood, Vice Chair; Fairley and Wojahn.

Staff: Jonathan Seib (786-7427)

Background: The corporate practice of medicine doctrine is a common law doctrine first established through the decisions of numerous states' courts in the early half of this century. These courts reasoned that since a corporation, as simply a legal entity, could not itself meet professional licensing requirements, it could not "practice medicine," either directly or through those it employed. Seen as a means to maintain provider autonomy and therefore protect patients from receiving substandard care, the doctrine prohibits medical professionals from being employed by corporations or forming corporations themselves to deliver medical services.

The corporate practice of medicine doctrine was first adopted in Washington in a 1943 state Supreme Court decision. It was given implicit statutory recognition in 1969 when the Legislature passed the Professional Services Corporations Act (RCW Chapter 18.100). This act creates a narrow exception to the doctrine by allowing a health professional to join only with other health professionals in the formation of a corporation. The act was amended in 1983 to also allow health maintenance organizations to employ health professionals. The last Washington court case to apply the corporate practice of medicine doctrine was decided in 1988.

The doctrine was developed at a time when the customary practice of health care was largely based on individual practices utilizing a fee-for-service system of reimbursement. Health care today is characterized by managed care, capitated provider contracting, and a push toward multi-specialty integrated group practices. There is concern that the corporate practice of medicine doctrine does not fit this changed environment, and that it is subject to misuse beyond its original purpose.

Summary of Bill: The corporate practice of medicine doctrine as it applies to health care practitioners other than dentists and veterinarians is abrogated in whole. This abrogation is to be liberally construed by the courts. As such, health practitioners may use any lawful type of business organization to provide health care services, including professional service corporations or similar limited liability companies or partnerships.

Physicians and osteopathic physicians are included among those regulated health professions which may associate together in forming single professional health service corporations or similar professional limited liability companies or partnerships.

The abrogation of the corporate practice of medicine doctrine does not affect the ethical obligation of health care practitioners, nor does it authorize anyone to require them to violate any federal, state or local laws.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill formally abrogates an antiquated doctrine that has little viability or applicability in today's health care delivery system. To a large extent it is ignored, but the fact that it is still on the books creates difficulties and confusion.

Testimony Against: None.

Testified: PRO: Andy Dolan, Washington State Medical Association; Jeff Larsen, Washington Association of Osteopathic Physicians.