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Idaho Board of Medicine Disavows the Corporate Practice of Medicine Doctrine

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For decades, the Idaho Board of Medicine took the position that, with limited exceptions, the Idaho Medical Practice Act “prohibits unlicensed corporations and entities from hiring physicians as employees to provide medical services to patients.” Memo from J. Uranga to Idaho State Bd. of Medicine dated 2/26/07. This “corporate practice of medicine doctrine” had its Idaho foundation in a 1952 Idaho Supreme Court case which held that:

[n]o unlicensed person or entity may engage in the practice of the medical profession through licensed employees; nor may a licensed physician practice as an employee of an unlicensed person or entity. Such practices are contrary to public policy.

Worlton v. Davis, 73 Idaho 217, 221 (1952). The Board of Medicine warned that violations of the doctrine may result in disciplinary action against physicians and, more recently, physician assistants. Entities that improperly employed physicians or physician assistants risked the possibility of criminal action for the unauthorized practice of medicine.

Over the years, the corporate practice of medicine doctrine has been criticized as anachronistic and inconsistent with recent legislative action. See, e.g., M. Gustavson and N. Taylor, *At Death's Door—Idaho's Corporate Practice of Medicine Doctrine*, 47 Idaho L. Rev. 480 (2011).

At a special meeting held in March 2016, the Idaho Board of Medicine formally abandoned the corporate practice of medicine doctrine, declaring:

In the past, occasionally the Idaho State Board of Medicine has disciplined physicians for aiding and abetting the unlicensed practice of medicine by working for unlicensed entities or persons, sometimes known as the “corporate practice of medicine doctrine.” The Idaho State Board of Medicine hereby formally disavows and rejects the “corporate practice of medicine doctrine.” The Idaho State Board of Medicine will not discipline physicians or physician assistants solely because they practice medicine in association with or for unlicensed entities or persons.

Notes of Idaho State Board of Medicine Telephone Conference dated 3/28/16, available [here](#). The Board's action clears the way for new arrangements between physicians, physician assistants and non-physicians by which, e.g., corporate entities or non-physicians may employ physicians and physician assistants directly to render care to clients, employees, or others. Entities seeking to capitalize on the change should

consider two cautions, however:

First, *Worlton v. Davis* has not been expressly rejected by the Idaho Supreme Court; it is possible that an Idaho court would rely on *Worlton* to resurrect the doctrine. Nevertheless, I think this is very unlikely given the fact that the Idaho Board of Medicine seems to have been the only agency interested in enforcing the doctrine since *Worlton* was decided.

Second, unlicensed entities must ensure that only licensed individuals actually engage in the practice of medicine. Utilizing unlicensed persons to take actions that constitute the practice of medicine may subject such persons to liability. Physicians and physician assistants who permit such actions may be subject to discipline for aiding or abetting the unauthorized practice of medicine.

For questions regarding this update, please contact:

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