State Corporate Practice of Medicine (CPOM) Doctrines & Nonprofit Exceptions

Key:

- States with no CPOM doctrine **(17)**
- States with a CPOM doctrine and an exception for nonprofits **(12)**
- States with a CPOM doctrine and an exception for specific types of nonprofits **(11)**
- States with a CPOM doctrine and no nonprofit exceptions **(11)**

State	CPOM Doctrine?	Description of Nonprofit Exception
Alabama	No. Ala. Att'y Gen. Op. No. 2001-089 (Feb. 1, 2001); Declaratory Ruling of the Ala. Med. Licensure Comm'n, Oct. 21, 1992).	N/A
Alaska	No. Alaska Stat. § 08.64.170.	N/A
Arizona	Yes. *Funk Jewelry Co. v. State ex rel. LaPrade*, 50 P.2d 945 (Ariz. 1935); *Midtown Med. Grp., Inc. v. State Farm Mut. Auto. Ins. Co.*, 206 P.3d 790 (Ariz. Ct. App. 2008).	Nonprofit corporations may engage in the practice of medicine, provided the corporation engages in the practice of medicine only through individuals licensed to practice in Arizona. Ariz. Rev. Stat. § 10-3301.
Arkansas	Yes. Ark. Code Ann. §§ 17-95-202; 4-29-309(a); Ark. Att'y Gen. Op. No. 2014-118 (Mar. 10, 2015).	Nonprofits organized as medical services corporations may contract for the services of physicians, but may not directly employ physicians. *See* Ark. Code Ann. §§ 23-75-101 to 23-75-122; Ark. Att'y Gen. Op. 1994-204 (Aug. 17, 1994).
California	Yes. Cal. Bus. & Prof. Code § 2400.	Any licensed charitable and eleemosynary institution, foundation, or clinic may employ physicians and surgeons so long as such institution, foundation or clinic does not require a charge for professional medical services rendered patients. 16 Cal. Code Regs. § 1340; Cal. Bus. & Prof. Code § 2400.
Colorado	Yes. Colo. Rev. Stat. § 12-240-138(6)(a).	None. Colo. Rev. Stat. § 25-3-103.7.
Connecticut	Yes. Conn. Gen. Stat. § 20-9(a); Conn. Att'y Gen. Op. No. 248 (Dec. 2, 1954); Conn. Gen. Stat. §§ 33-182aa, *et seq.*	Nonprofit medical foundations are not subject to the CPOM prohibition, but the foundation members must be independent practice associations or business entities at least 60% owned and controlled by an independent practice association, a provider, or a professional services corporation/other entity. Conn. Gen. Stat. § 33-182bb.
Delaware	No. Del. Code Ann. tit. 24, §§ 1701 *et seq.*	N/A
District of Columbia	Yes. D.C. Code §§ 3-1201.02(7)(A), 29-502, 29-503.	None.
Florida	No. In re: Petition for Declaratory Statement of Conrad Goulet, M.D., Case No. 89-COM-01 (1989)	N/A

EXHIBIT R Senate Committee on Health and Human Services
Date: 5-9-2023 Total pages: 6
Exhibit begins with: R1 thru: R6

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State	CPOM Doctrine?	Description of Nonprofit Exception
	(statement published by the Florida Board of Medicine acknowledging Florida has not prohibited the corporate practice of medicine).	
Georgia	Yes. *Sherrer v. Hale*, 285 S.E.2d 714 (1982); *Health Horizons, Inc. v State Farm Mutual Auto. Ins. Co.*, 521 S.E.2d 383 (1999); Ga. Comp. Med. Bd., Monthly Meeting Minutes, Executive Director's Report, para. 9 (June 7-8, 2012).	None.
Hawaii	No. Haw. Rev. Stat. § 453-2; Haw. Rev. Stat. § 448-15.	N/A
Idaho	No. Notes of Idaho State Bd. Of Med. Telephone Conference (Mar. 28, 2016).	N/A
Illinois	Yes. 225 ILCS 60/22.	None. *Carter-Shields v. Alton Health Inst.*, 777 N.E.2d 948 (Ill. 2002) (refusing to extend the hospital exception to a charitable, nonprofit health organization).
Indiana	Yes. Ind. Code §§ 25-22.5-1-2(c); 25-22.5-8-1.	Indiana law expressly exempts health care entities from the corporate practice prohibition. Nonprofit incorporated entities are also allowed to employ physicians, as long as the entity does not interfere with the professional judgment of its employed professionals. Ind. Code § 23-17-4-1; 25-22.5-1-2(c).
Iowa	Yes. Iowa Code § 147.2; Iowa Att'y Gen. Op. No. 91-7-1 (1992) (republished by the Iowa Board of Medicine August 1, 2015).	Nonprofit corporations do not violate the corporate practice doctrine if the physician retains control over the patient relationship. In 2015, the Iowa Board of Medicine reaffirmed a prior attorney general opinion that concluded not all employment relationships between a corporation and licensed professional are prohibited in Iowa. Rather, violations of the corporate practice doctrine are based on a case-by-case evaluation of control and dominion in the corporate-physician relationship at issue. Unless prohibited by statute or by public policy considerations against lay control of medical judgment and lay exploitation of the practice of medicine, non-physician corporations may provide medical services through employed physicians. Although nothing officially extends the same rationale to non-incorporated entities, the attorney general opinion explicitly rejects an interpretation of the doctrine based solely on the profit or non-profit status of a corporation, recitation of the intent regarding the physician's independence, or designation of the physician as an employee. Given the absence of any express prohibition of employment of physicians by unincorporated entities, the doctrine will likely not apply to any nonprofit entity's employment of a physician where the physician retains control over medical judgments and the patient relationship. Iowa Att'y Gen. Op. No. 91-7-1 (1992) (republished by the Iowa Board of Medicine August 1, 2015).
Kansas	Yes. Kan. Stat. Ann. §§ 65-2803, 65-2837, 65-2867.	Only nonprofit hospitals are exempt from the state's corporate practice prohibition. *St. Francis Reg'l Med. Ctr., Inc. v. Weiss*, 869 P.2d 606 (Kan. 1994); Kans. Stat. Ann. § 65-28,134.

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Kentucky	Yes. Ky. Rev. Stat. § 311.560.	Nonprofit entities providing medical services as a charitable health care provider registered with the state are exempt from the corporate practice prohibitions. Note that the Kentucky Medical Board has also indicated that it will not enforce the corporate practice prohibition as long as the employer does not interfere with the physician's independent medical judgment. Ky. Rev. Stat. § 216.940; Ky. Bd. Of Med. Op. No. 36 (Feb. 10, 1995).
Louisiana	Yes. La. State Bd. of Med. Exm'rs, Statement of Position, *Employment of Physician by corporation Other Than a Professional Medical Corporation* (Sept. 24, 1992, reviewed Mar. 21, 2001).	The corporate practice doctrine is not violated (by any type of entity) if the employer does not seek to impose or substitute its judgement for that of the physician in patient care and isn't otherwise structured to undermine the essential incidents of the physician-patient relationship. La. State Bd. Of Med. Exm'rs, Statement of Position, *Employment of Physician by Corporation Other Than a Professional Medical Corporation* (Sept. 24, 1992, reviewed Mar. 21, 2001).
Maine	No. Me. Bd. of Licensure, Opinion (Nov. 2, 1992); 13-B Code Me. R. § 1307.	N/A
Maryland	Yes. Md. Bd. of Physicians, Statement, *Information on Corporate Issues*, available here.	None. Md. Code Ann. Health Gen. § 19-351.
Massachusetts	Yes. *McMurdo v. Getter*, 10 N.E.2d 139 (1937).	A physician may practice medicine through a nonprofit organization, a nonprofit hospital services corporation, a nonprofit medical services corporation or a similar organization under Maine law or other comparable state law, as long as the entity does not restrict the physician as to methods of diagnosis or treatment. Mass. Gen. Laws Ch. 176B, § 7; 243 CMR § 2.07(22)(a).
Michigan	Yes. Mich. Att'y Gen. Op. No. 6592 (Jul. 10, 1989).	Nonprofit hospitals or other nonprofit corporations, as defined in Mich. Comp. Laws Serv. § 450.2101 et seq., may provide medical services through employed physicians. Mich. St. Att'y Gen. Op. No. 6770 (Sept. 17, 1993).
Minnesota	Yes. Minn. Op. Att'y Gen. No. 92-B-11 (Oct. 5, 1955); *Isles Wellness, inc. v. Progress N. Ins. Co.*, 703 N.W.2d 513 (Minn. 2005).	Nonprofit corporations may employ physicians without violating the corporate practice prohibition. Minn. Op. Att'y Gen. No. 92-B-11 (Oct. 5, 1955).
Mississippi	No. The Mississippi Board of Medical Licensure announced it won't concern itself with the form of physician business arrangements provided: 1) The physician employed/contracted is licensed in Mississippi; 2) The method and manner of patient treatment and the means by which patients are treated are left to the sole and absolute discretion of the physician; and 3) the manner of billing and the amount of fees and expenses charged to a patient for medical services rendered are left solely to the discretion of the physician.	N/A

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	Miss. Bd. of Med. Licensure, Policy 3.02, *Corporate Practice of Medicine* (revised Sept. 20, 2001).	
Missouri	No. *State ex inf. McKittrick v. Gate City Optical Co.*, 97 S.W.2d 89 (Mo. 1936) (citing *State ex inf. Sager v. Lewin*, 106 S.W. 581 (Mo. Ct. App. 1907)).	N/A
Montana	Yes. The Montana statute prohibiting the corporate practice of medicine was repealed in 1995, but the Montana Board of Medical Examiners regulations still provide business arrangements with non-licensed persons constitutes unprofessional conduct (with some exceptions). Mont. Admin. R. 24.156.625(1)(t).	None.
Nebraska	No. *State Electro-Med. Inst. v. State*, 103 N.W. 1078 (Neb. 1905).	N/A
Nevada	Yes. Nev. Rev. Stat. § 89.050; Nev. Att'y Gen. Op. No. 2002-10 (Feb. 26, 2002).	Only nonprofits organized as a medical services corporation may provide services through physicians. Nev. Rev. Stat. § 695B.020.
New Hampshire	No. N.H. Rev. Stat. § 293-A:1.01, *et seq.*	N/A
New Jersey	Yes. N.J. Admin. Code § 13:35-6.16; *Allstate Ins. Co. v. Northfield Med. Ctr., P.C.*, 159 A.3d 412 (N.J. 2017).	Only nonprofit corporations sponsored by a union, social or religious or fraternal-type organization providing health care services to members may employ a physician. N.J. Admin. Code § 13:35-6.16(f)(4)(iii).
New Mexico	No. N.M. Admin. Code § 16.10.1.13(B).	N/A
New York	Yes. *State v. Abortion Info. Agency, Inc.*, 69 Misc. 2d 825 (N.Y. Sup. Ct. 1971); Andrew Carothers, M.D., P.C. v. Progressive Ins. Co., 128 N.E.3d 153 (N.Y. 2019).	Nonprofit university faculty organizations, medical expense indemnity corporations and hospital service corporations are exempt from the corporate practice prohibition. New York law is silent on how the doctrine applies to other nonprofit entities. N.Y. Not-For Profit Corp. Law § 1412; N.Y. Educ. Law § 6527(1).
North Carolina	Yes. N.C. Att'y Gen. Op. No. 43 (Dec. 9, 1955); N.C. Gen. Stat. § 90-18(a).	Charitable nonprofits are exempt from the corporate practice doctrine. N.C. Med. Bd., Position Statement, *Corporate Practice of Medicine* (Mar. 2016); N.C. Att'y Gen. Op. No. 43 (Dec. 9, 1955).
North Dakota	Yes. N.D. Att'y Gen., Advisory Letter to Robert G. Hoy, Cass Cty State's Atty (October 23, 1990).	None. N.D. Att'y Gen., Advisory Letter to Robert G. Hoy, Cass Cty State's Atty (October 23, 1990); N.D. Cent. Code § 43-17-42.
Ohio	Yes. Ohio Rev. Code § 4731.226.	Physicians may provide medical services through a nonprofit corporation or foundation. Ohio Rev. Code § 4731.226(A)(1).
Oklahoma	No.	N/A

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	Okla. Att'y Gen. Op. No. 02-20 (May 8, 2002).	
Oregon	Yes. *State ex rel Sisemore v. Standard Optical Co.*, 182 Or 452, 188 P2d 309 (1947); Ore. Att'y Gen. Op. No. 7230 (1975).	None. Ore. Att'y Gen. Op. No. 5689 (1984).
Pennsylvania	Yes. *Neill v. Gimbel Bros., Inc.*, 199 A. 178, 181 (Pa. 1938).	Pennsylvania's Nonprofit Corporation Law provides that a nonprofit corporation may be incorporated for "any lawful purpose," including a "professional" purpose. 63 Pa. Stat. Ann. § 5301(a).
Rhode Island	Yes. R.I. Gen. Laws § 7-1.2-301.	Nonprofit corporations may be organized for any lawful purpose, including health services. R.I. Gen. Laws § 7-6-4; *RIH Medical Foundation, Inc. v. Nolan*, 723 A.2d 1123 (R.I. 1999) (holding that a nonprofit foundation in Rhode Island was not required to be licensed as a health care facility because the "control of the delivery of medical services" remained in the hands of physicians).
South Carolina	Yes. *Baird v. Charleston Cty., S.C.*, 511 S.E.2d 69 (S.C. 1999).	Business arrangements with physicians are permissible as long as the arrangement does not allow a person other than a licensed physician to direct, participate in, or interfere with the licensee's practice of medicine and exercise of their independent professional judgement. S.C. Bd. of Med. Exm'rs, *The Supervision of Unlicensed Personnel and the Corporate Practice of Medicine* (Oct. 4, 2017).
South Dakota	Yes. S.D. Codified Laws § 36-4-8.1.	South Dakota law provides corporations (whether for profit or not) may employ physicians as long as the arrangement does not: 1) interfere or regulate the physician's medical judgement; 2) result in profit by charging a greater fee for the physician's services than an independent physician would; 3) remain effective for an initial period of more than three years, after which annual renewal is permissible. S.D. Codified Laws § 36-4-8.1
Tennessee	Yes. Tenn. Code §§ 63-6-204; 68-11-205.	None. Tenn. Code §§ 63-6-204; 68-11-205.
Texas	Yes. Tex. Occ. Code § 155.001, 164.05, 165.156.	The corporate practice doctrine does not apply to nonprofit community hospitals, critical access hospitals, rural health clinics, and health care corporations owned by licensed individuals. Tex. Occ. Code § 162.001; 22 Tex. Admin. Code § 177.17;
Utah	No. Utah Code Ann. §§ 58-67-802(1), 58-68-802(1), 58-67-501(1).	N/A
Vermont	No. Vt. Stat. Ann. tit. 8, § 4581.	N/A
Virginia	No. Va. Code § 54.111(D); Va. Bd. of Med., Guidance Doc. 85-21 (reviewed and aff'd Oct. 18, 2018).	N/A
Washington	Yes. Wash. Rev. Code § 18.100.30(1); *Columbia Physical Therapy, Inc. v.*	None. *Columbia Physical Therapy, Inc. v. Benton Franklin Orthopedic Assocs.*, 228 P.3d 1260 (Wash. 2010) ("absent legislative authorization, a business entity

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	Benton Franklin Orthopedic Assocs., 228 P.3d 1260 (Wash. 2010).	may not employ medical professionals to practice their licensed professions").
West Virginia	Yes. W. Va. Code § 30-3-15; W. Va. Bd. Of Med., *Position Statement on the Corporate Practice of Medicine* (Mar. 19, 2018).	None. W. Va. Code § 30-3-15.
Wisconsin	Yes. Wis. Att'y Gen. Op. No. 39-86 (Oct. 21, 1986).	A nonprofit medical education and research organization may contract with a physician as an employee or to provide consultation services as long as: 1) the physician is a member of or acceptable to and subject to the approval of the organization's medical staff; 2) the physician is permitted to exercise professional judgement without supervision or interference by the organization; 3) the contract establishes the physician's remuneration; and 4) The organization does not limit medical staff membership to employee physicians; and 5) Any charges to a patient for the physician's services designate the name of the physician and that their services are included in the departmental charges. Wis. Stat. § 448.05(5); Wis. Att'y Gen. Op. No. 31-86 (Sept. 8, 1986) (defining a medical education and research organization as organized for the dominant purpose of providing medical education and conducting medical research and other functions are incidental to that purpose).
Wyoming	No. Wyo. Stat. §§ 17-3-101 through 17-3-104; Wyo. Att'y Gen. Op. No. 79-17 (1979).	N/A