

SENATE THIRD READING

SB 351 (Cabaldon)

As Amended June 16, 2025

Majority vote

SUMMARY

Expressly prohibits private equity groups and hedge funds from interfering with the professional judgment of physicians or dentists in making health care decisions or exercising control or power over specified activities in violation of the existing bar on the corporate practice of medicine or dentistry, and subjects private equity groups and hedge funds to enforcement by the Attorney General for violations of those specific prohibitions.

Major Provisions

- 1) Defines "hedge fund" as a pool of funds managed by investors for the purpose of earning a return on those funds, regardless of the strategies used to manage the funds, including, but not limited to, a pool of funds managed or controlled by private limited partnerships.
- 2) Defines "private equity group" as an investor or group of investors who primarily engage in the raising or returning of capital and who invests, develops, or disposes of specified assets.
- 3) Exempts the following from the definition of both "hedge fund" and "private equity group":
 - a) Natural persons or other entities that contribute, or promise to contribute, funds to the hedge fund or private equity group, but otherwise do not participate in the management or in any change in control of the hedge fund or private equity group or its assets.
 - b) A hospital or a hospital system that owns one or more licensed general acute care hospitals; an affiliate of a hospital or hospital system; or any entity managed or controlled by a hospital or hospital system.
- 4) Additionally exempts from the definition of "hedge fund" entities that solely provide or manage debt financing secured in whole or in part by the assets of a health care facility.
- 5) Prohibits a private equity group or hedge fund involved in any manner with a physician or dental practice doing business in California from interfering with the professional judgment of physicians or dentists in making health care decisions, including by doing any of the following:
 - a) Determining what diagnostic tests are appropriate for a particular condition.
 - b) Determining the need for referrals to, or consultation with, another physician, dentist, or licensed health professional.
 - c) Being responsible for the ultimate overall care of the patient, including treatment options available to the patient.
 - d) Determining how many patients a physician or dentist shall see in a given period of time or how many hours a physician or dentist shall work.

- 6) Further prohibits a private equity group or hedge fund from exercising control over, or being delegated the power to do, any of the following:
 - a) Owning or otherwise determining the content of patient medical records.
 - b) Selecting, hiring, or firing physicians, dentists, allied health staff, and medical assistants based, in whole or in part, on clinical competency or proficiency.
 - c) Setting the parameters under which a physician, dentist, or physician or dental practice shall enter into contractual relationships with third-party payers.
 - d) Setting the clinical competency or proficiency parameters under which a physician or dentist shall enter into contractual relationships with other physicians or dentists for the delivery of care.
 - e) Making decisions regarding the coding and billing of procedures for patient care services.
 - f) Approving the selection of medical equipment and medical supplies for the practice.
- 7) Prohibits a private equity group or hedge fund from entering into an agreement with a physician or dental practice if the agreement or arrangement would enable the person or entity to interfere with the professional judgment of physicians or dentists in making health care decisions or exercise control over or be delegated the powers set forth in the bill.
- 8) Prohibits contracts between private equity or hedge funds and physician or dental practices from containing specified noncompete clauses or nondisparagement clauses.
- 9) Empowers the Attorney General to enforce the provisions of the bill.

COMMENTS

Corporate Practice of Medicine (CPOM) Doctrine. The CPOM doctrine broadly prohibits corporations from being licensed as health care professionals, directly employing health care professionals, or exercising control over the decision-making of licensed health care professionals in a manner that interferes with their independent professional judgment. The Medical Practice Act has long stated the following: "Corporations and other artificial legal entities shall have no professional rights, privileges, or powers." Frequently cited in combination with provisions of practice acts reserving professional services for persons in possession of a license, this language represents the most express statutory recognition of the CPOM doctrine. However, statute further provides for various exceptions to the doctrine to allow for corporations to render professional services, including through direct employment of licensed practitioners by medical schools, nonprofit research clinics, narcotic treatment programs, charitable pediatric hospitals, and critical access hospitals. Public entities are also exempt from the CPOM doctrine.

While the CPOM doctrine generally prohibits corporations from owning or controlling health care practices, the Legislature has established a framework to allow for the formation of professional corporations. Under the Moscone-Knox Professional Corporations Act, physicians, dentists, and other health care professionals may join together to form a corporation authorized to render professional services requiring a license. A majority of the professional corporation's shareholders must be licensed to provide the services rendered by the corporation.

A common architecture for health care practices involves a partnership between a professional corporations and management services organization (MSO). An MSO is a corporate entity that provides administrative and business support services to medical practices that are non-clinical in compliance with the CPOM doctrine. Services provided by an MSO may include billing, human resources, and office management. An MSO may enter into a management services agreement with a professional corporation to provide what is sometimes referred to as "back office" functions for the medical practice. Because an MSO is not engaged in the rendering of licensed professional services, it is not subject to the restrictions of the Moscone-Knox Professional Corporations Act and its shareholders and officers are not required to be licensees. As a result, MSOs may represent investment opportunities for private equity groups and hedge funds. Research anticipates that the value of the national MSO market will exceed \$100 billion by 2030.

Enforcement of the CPOM Doctrine. Under current law, violations of the CPOM doctrine are generally enforceable as unlicensed practice by the appropriate licensing board for the respective profession. The Medical Board of California (MBC) is the primary entity responsible for taking action when a corporation is unlawfully involved in the practice of medicine by physicians and surgeons. The MBC has published guidance on its website to educate licensees on "the types of behaviors and subtle controls that the corporate practice doctrine is intended to prevent."

In 2024, Attorney General Rob Bonta sponsored Assembly Bill 3129 (Wood) of 2024, authored by the Chair of the Assembly Committee on Health. In addition to language in the bill requiring a private equity group or hedge fund from obtaining the Attorney General's approval to enter into a transaction with a health care facility, provider, or provider group, AB 3129 would have codified the MBC's guidance regarding what types of decisions and activities by unlicensed persons or entities would be considered interference with professional judgment of physicians and dentists in making health care decisions or would constitute inappropriate control or over clinical practice. The bill would have expressly prohibited private equity groups or hedge funds from entering into an agreement or arrangement with a physician or dental practice in violation of these prohibitions, and would have further prohibited noncompete and nondisparagement clauses in contracts between those entities.

AB 3129 was passed by the Legislature, but was ultimately vetoed by Governor Gavin Newsom. Following the Governor's veto, the California Medical Association and the California Dental Association decided to sponsor this bill, which contains the language in the prior bill relating to prohibited decisions and activities by private equity groups and hedge funds involved in physician or dental practice. This language, which was previously approved by the Legislature and not referenced as a factor in the Governor's veto, continues to be lifted nearly verbatim from the MBC's guidance, with minor amendments clarifying the role that MSOs may play in physician or dental practice. As a result, the prohibitions provided in this bill may be viewed simply as codifications of existing applications of the CPOM doctrine.

While this bill would arguably not prohibit any acts not already proscribed under the CPOM doctrine, it would provide for additional enforcement against those acts when the perpetrator is a private equity group or hedge fund, as defined in the bill. Currently, violations of the CPOM doctrine in the practices of medicine and dentistry are primarily enforced as unlicensed practice by the MBC or the Dental Board of California. This bill would allow for the Attorney General to bring an action for injunctive relief and other equitable remedies deemed appropriate to enforce the bill, and to recover attorney's fees and costs incurred in that action.

According to the Author

"Private equity firms are gaining influence in our health care system, leading to rising costs and undermining the quality of care. As these firms acquire more medical practices, there is a growing need for stronger enforcement to protect patient care and ensure that decisions are made based on medical needs and patient care, not profit. If left unchecked, these acquisitions could erode existing protections, violate the Corporate Bar, and put financial interests above the well-being of Californians. In response, SB 351 empowers the Attorney General (AG) to hold private equity groups accountable for interfering with the practice of medicine. The bill strengthens California's ban on the corporate practice of medicine by allowing the AG to investigate and take action against private equity firms that unlawfully interfere in the patient-physician relationship. The goal is to restore trust in the health care system, ensuring that medical decisions are made in the best interest of patients, not financial shareholders."

Arguments in Support

Attorney General Rob Bonta supports this bill, writing that "SB 351 empowers the AG to hold private equity groups accountable for interfering with the Corporate Bar. The bill strengthens California's ban on the corporate practice of medicine by allowing the AG to investigate and take action against private equity firms that unlawfully interfere in the patient-physician relationship. The goal is to restore trust in the health care system, ensuring that medical decisions are made in the best interest of patients, not financial shareholders."

Arguments in Opposition

The *American Investment Council* (AIC) opposes this bill, writing: "[W]e request that the bill be amended to include a confidentiality carveout in Section 1191, subdivision (d). Specifically, the bill should clarify that physician practices may be subject to customary confidentiality provisions—so long as such provisions do not prevent disclosure when required by law, including through a court order or government investigation."

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, the Dental Board of California estimates this bill will result in an absorbable cost of \$17,000 per year; the MBC and the Osteopathic Medical Board of California anticipate no costs; and the Department of Justice anticipates no significant costs.

VOTES

SENATE FLOOR: 30-6-4

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Dahle, Durazo, Gonzalez, Grayson, Hurtado, Laird, McGuire, McNerney, Menjivar, Padilla, Pérez, Richardson, Rubio, Smallwood-Cuevas, Stern, Strickland, Umberg, Wahab, Weber Pierson, Wiener

NO: Grove, Jones, Niello, Ochoa Bogh, Seyarto, Valladares

ABS, ABST OR NV: Alvarado-Gil, Choi, Limón, Reyes

ASM BUSINESS AND PROFESSIONS: 16-0-2

YES: Berman, Flora, Ahrens, Alanis, Caloza, Chen, Elhawary, Hadwick, Haney, Irwin, Jackson, Krell, Lowenthal, Ellis, Nguyen, Pellerin

ABS, ABST OR NV: Bains, Bauer-Kahan

ASM JUDICIARY: 12-0-0

YES: Kalra, Dixon, Bauer-Kahan, Bryan, Connolly, Harabedian, Macedo, Pacheco, Papan, Sanchez, Stefani, Zbur

UPDATED

VERSION: June 16, 2025

CONSULTANT: Robert Sumner / B. & P. / (916) 319-3301

FN: 0001120