

**2023 SENATE HUMAN SERVICES**

**SB 2148**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Fort Lincoln Room, State Capitol

SB 2148  
1/24/2023

Relating to the corporate practice of medicine.

11:16 AM **Madam Chair Lee** called the hearing to order. **Senator Lee, Cleary, Clemens, K. Roers, Weston and Hogan** are present.

**Discussion Topics:**

- Physicians
- Nonprofit exemption

11:17 AM **Senator Sickler** introduces SB 2148 and submitted an amendment #14726, verbal testimony in favor

11:18 AM **Senator Sickler** provided additional information #14729

11:18 AM **Courtney Koebele, Executive Director North Dakota Medical Association** testimony in favor #15730

11:19 AM **Courtney Koebele** provided additional information #15731

11:21 AM **Dr. William Noyes, Board Member, Commission for Legislation for the ND Medical Association** testimony in favor #15594

11:26 AM **Levi Anderist Lobbyist for Anne Carlson Center** introduced Dr. Quanrud

11:27 AM **Dr. Myra Quanrud, Pediatrician and Medical Director Medical Anne Carlsen Center** testimony in favor #15931

10:32 AM **Madam Chair Lee** closed the hearing.

*Patricia Lahr, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

**Human Services Committee**  
Fort Lincoln Room, State Capitol

SB 2148  
1/24/2023

Relating to the corporate practice of medicine.

3:11 PM **Madam Chair Lee** called the committee to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Proposed amendment

**Senator K. Roers** moved to adopt **Amendment** proposed by Senator Sickler (23.0647.02001).

**Senator Hogan** seconded.

Roll call vote.

<b>Senators</b>	<b>Vote</b>
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

The motion passed 6-0-0.

**Senator K. Roers** moves **DO PASS as AMENDED**.

**Senator Cleary** seconded.

Roll call vote.

<b>Senators</b>	<b>Vote</b>
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

**Senator Cleary** carries SB 2148.

3:13 PM **Madam Chair Lee** closed the hearing.

*Patricia Lahr, Committee Clerk*

January 16, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2148

Page 1, line 6, overstrike " - **Employment of physicians by**" and insert immediately thereafter  
an underscored boldfaced comma

Page 1, line 7, after "**entities**" insert an underscored boldfaced comma

Page 1, line 8, overstrike "1."

Page 1, line 8, after "23-16" insert ", nonprofit entity, or charitable trust"

Page 1, line 10, after "hospital" insert ", nonprofit entity, or charitable trust"

Page 1, line 11, overstrike "hospital's"

Page 1, line 15, after the first "hospital" insert ", nonprofit entity, or charitable trust"

Page 1, line 15, overstrike "subsection a" and insert immediately thereafter "section the"

Page 1, line 15, after the second "hospital" insert ", nonprofit entity, or charitable trust"

Page 1, overstrike line 16

Page 1, line 17, overstrike "employ directly or indirectly a physician"

Page 1, line 17, overstrike "if the"

Page 1, overstrike lines 18 through 23

Page 2, overstrike lines 1 and 2

Re-number accordingly

OR  
1/1

1-24-2023

**REPORT OF STANDING COMMITTEE**

**SB 2148: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2148 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 6, overstrike " - **Employment of physicians by**" and insert immediately thereafter an underscored boldfaced comma

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Page 1, line 17, overstrike "employ directly or indirectly a physician"

Page 1, line 17, overstrike "if the"

Page 1, overstrike lines 18 through 23

Page 2, overstrike lines 1 and 2

Renumber accordingly

**2023 HOUSE HUMAN SERVICES**

**SB 2148**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

SB 2148  
3/8/2023

Relating to the corporate practice of medicine.

Chairman Weisz called the meeting to order at 2:54 PM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. Vice Chairman Matthew Ruby not present.

### **Discussion Topics:**

- Employment of physicians
- Non-profit clinics
- Behavior complexities

Sen. Sickler introduced SB 2148, speaking in support.

Courtney Koebele, Executive Director of North Dakota Medical Association, supportive testimony (#22757) (#22758).

Dr. William Noyse, physician at the Cancer Center of North Dakota and member of the Commission for Legislation on the North Dakota Medical Association, supportive testimony (#22842).

Levi Andrist, with the GA Group, spoke in support and introduced Myra Quanrud.

Myra Quanrud, Medical Director at Ann Carlson Center in Jamestown, North Dakota, supportive testimony (# 26876).

Chairman Weisz adjourned the meeting at 3:06 PM.

*Phillip Jacobs, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

SB 2148  
3/13/2023

Relating to the corporate practice of medicine.

Chairman Weisz called the meeting to order at 3:57 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

### Discussion Topics:

- Committee work

Chairman Weisz called for a discussion on SB 2148.

Rep. Porter moved a do pass on SB 2148.

Seconded by Rep. McLeod.

### Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	AB
Representative Karen M. Rohr	AB

Motion carries 12-0-2.

Carried by Rep. Beltz.

Chairman Weisz adjourned the meeting at 4:00 PM.

*Phillip Jacobs, Committee Clerk*



**REPORT OF STANDING COMMITTEE**

**SB 2148, as engrossed: Human Services Committee (Rep. Weisz, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed SB 2148 was placed on the Fourteenth order on the calendar.

**TESTIMONY**

**SB 2148**

23.0647.02001

Sixty-eighth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2148**

Introduced by

Senators Sickler, Barta, K. Roers

Representative Strinden

1 A BILL for an Act to amend and reenact section 43-17-42 of the North Dakota Century Code,  
2 relating to the corporate practice of medicine.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 43-17-42 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **43-17-42. Employment of physicians by hospitals** ~~Employment of physicians by~~  
7 **nonprofit entities, and charitable trusts for hyperbaric oxygen therapy.**

8 ~~1.~~ Notwithstanding any other provision of law, a hospital licensed under chapter 23-16,  
9 nonprofit entity, or charitable trust may employ directly or indirectly a physician if the  
10 employment relationship between the physician and hospital, nonprofit entity, or charitable trust  
11 is evidenced by a written contract. The written contract must contain language to the effect the  
12 ~~hospital's~~ employment relationship with the physician may not affect the exercise of the  
13 physician's independent judgment in the practice of medicine, and the physician's independent  
14 judgment in the practice of medicine is in fact unaffected by the physician's employment  
15 relationship with the hospital, nonprofit entity, or charitable trust. Under this ~~subsection~~ a section  
16 the hospital, nonprofit entity, or charitable trust is not engaged in the practice of medicine.

17 ~~2.~~ ~~Notwithstanding any other provision of law, a nonprofit entity or charitable trust may~~  
18 ~~employ directly or indirectly a physician to conduct hyperbaric oxygen therapy if the~~  
19 ~~employment relationship between the physician and nonprofit entity or charitable trust~~  
20 ~~is evidenced by a written contract. The written contract must contain language to the~~  
21 ~~effect the nonprofit entity's or charitable trust's employment relationship with the~~  
22 ~~physician may not affect the exercise of the physician's independent judgment in the~~  
23 ~~practice of medicine, and the physician's independent judgment in the practice of~~  
24 ~~medicine is in fact unaffected by the physician's employment relationship with the~~

1                    ~~nonprofit entity or charitable trust. Under this subsection a nonprofit entity or charitable-~~  
2                    ~~trust is not engaged in the practice of medicine.~~

23.0647.02001  
Title.

Prepared by the Legislative Council staff for  
Senator Sickler  
January 16, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2148

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Renumber accordingly

**Senate Human Services Committee**  
**SB 2148**  
**January 24, 2023**

Chair Lee and Committee Members, I am Dr. Bill Noyes and I serve on the Commission for Legislation for the North Dakota Medical Association. I am a physician in Grand Forks at the Cancer Center of North Dakota which is a for-profit free-standing cancer center helping patients in this region since 2004 and this May will have been open for 19 years.

As a physician, I am in strong support of SB 2148. As you are aware, there are 9 states with a Corporate Practice of Medicine law plus the District of Columbia that do not allow non-profit exceptions to hire physicians. As mentioned earlier, in North Dakota, only hospitals and non-profit hyperbaric oxygen centers are able to hire physicians provided the contract contains language that it will not affect the physician's ability to render an independent judgement in the practice of medicine.

Furthermore, the law as it is written represents an inequity in employment, since physicians are the only healthcare profession exempt from non-profit employment. Other professions such as physician assistants, nurses and nurse practitioners are able to choose non-profit employment options.

Presently, there are several non-profit clinics in North Dakota which hire physicians as independent contractors but do not directly hire them. Further, if a physician or physician group would elect to form a non-profit clinic to better serve their patients and their region, they are not able to directly hire physicians due to the current prohibition.

This proposed change would allow physicians another employment choice whether it be non-profit entities or charitable organizations and protect their ability to maintain an independent judgement in the practice of medicine. This is the standard in 40 other states.

For the above stated reasons, I request your support for SB 2148.

Thank you.

William (Bill) Noyes MD



**Senate Human Services Committee  
SB 2148  
January 24, 2023**

Chair Lee and Committee Members, I am Courtney Koebele and I serve as Executive Director for the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

The North Dakota Medical Association is in strong support of SB 2148. This issue was adopted at our 2022 Policy Forum based on a submission by William Noyes, MD, who is here today to testify.

This bill allows non-profit entities & charitable trusts the right to employ their own physicians when the employment relationship between the physician and the non-profit entity or trust is evidenced by a written contract that includes language protecting the physician's independent judgement in their practice of medicine. Other states in the country have similar exemptions from their corporate practice of medicine laws for non-profits and other public benefit type organizations.

In 1991, the law did refer to “non-profits” but at that time, all hospitals in the state were non-profits. In 1993, this law was updated to refer instead to licensed hospitals because a hospital changed statuses to become for-profit. It remained that way until last session when section 2 was added to the bill allowing non-profits to hire physicians to conduct hyperbaric oxygen therapy. This bill would remove the hyperbaric language and allow all non-profits to hire physicians.

For the above stated reasons, we request your support for SB 2148.

Thank you.

## 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 (12)
- States with a CPOM doctrine and no nonprofit exceptions (10)

State	CPOM Doctrine?	Description of Nonprofit Exception
<b>Alabama</b>	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
<b>Alaska</b>	No.  Alaska Stat. § 08.64.170.	N/A
<b>Arizona</b>	Yes.  <i>Funk Jewelry Co. v. State ex rel. LaPrade</i> , 50 P.2d 945 (Ariz. 1935); <i>Midtown Med. Grp., Inc. v. State Farm Mut. Auto. Ins. Co.</i> , 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.
<b>Arkansas</b>	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).
<b>California</b>	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.
<b>Colorado</b>	Yes.  Colo. Rev. Stat. § 12-240-138(6)(a).	None.  Colo. Rev. Stat. § 25-3-103.7.
<b>Connecticut</b>	Yes.  Conn. Gen. Stat. § 20-9(a); Conn. Att'y Gen. Op. No. 248 (Dec. 2, 1954); Conn. Gen. Stat. §§ 33-182aa, <i>et seq.</i>	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.
<b>Delaware</b>	No.  Del. Code Ann. tit. 24, §§ 1701 <i>et seq.</i>	N/A
<b>District of Columbia</b>	Yes.  D.C. Code §§ 3-1201.02(7)(A), 29-502, 29-503.	None.
<b>Florida</b>	No.  In re: Petition for Declaratory Statement of Conrad Goulet, M.D., Case No. 89-COM-01 (1989) (statement published by the Florida Board of Medicine	N/A



State	CPOM Doctrine?	Description of Nonprofit Exception
	acknowledging Florida has not prohibited the corporate practice of medicine).	
<b>Georgia</b>	Yes.  <i>Sherrer v. Hale</i> , 285 S.E.2d 714 (1982); <i>Health Horizons, Inc. v State Farm Mutual Auto. Ins. Co.</i> , 521 S.E.2d 383 (1999); Ga. Comp. Med. Bd., Monthly Meeting Minutes, Executive Director's Report, para. 9 (June 7-8, 2012).	None.
<b>Hawaii</b>	No.  Haw. Rev. Stat. § 453-2; Haw. Rev. Stat. § 448-15.	N/A
<b>Idaho</b>	No.  Notes of Idaho State Bd. Of Med. Telephone Conference (Mar. 28, 2016).	N/A
<b>Illinois</b>	Yes.  225 ILCS 60/22.	None.  <i>Carter-Shields v. Alton Health Inst.</i> , 777 N.E.2d 948 (Ill. 2002) (refusing to extend the hospital exception to a charitable, nonprofit health organization).
<b>Indiana</b>	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).
<b>Iowa</b>	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).
<b>Kansas</b>	Yes.  Kan. Stat. Ann. §§ 65-2803, 65-2837, 65-2867.	Only nonprofit hospitals are exempt from the state's corporate practice prohibition.  <i>St. Francis Reg'l Med. Ctr., Inc. v. Weiss</i> , 869 P.2d 606 (Kan. 1994); Kans. Stat. Ann. § 65-28,134.
<b>Kentucky</b>	Yes.	Nonprofit entities providing medical services as a charitable health care provider registered with the state are exempt from the corporate practice prohibitions.

State	CPOM Doctrine?	Description of Nonprofit Exception
	Ky. Rev. Stat. § 311.560.	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).
<b>Louisiana</b>	Yes.  La. State Bd. of Med. Exm'rs, Statement of Position, <i>Employment of Physician by Corporation Other Than a Professional Medical Corporation</i> (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, <i>Employment of Physician by Corporation Other Than a Professional Medical Corporation</i> (Sept. 24, 1992, reviewed Mar. 21, 2001).
<b>Maine</b>	No.  Me. Bd. of Licensure, Opinion (Nov. 2, 1992); 13-B Code Me. R. § 1307.	N/A
<b>Maryland</b>	Yes.  Md. Bd. of Physicians, Statement, <i>Information on Corporate Issues</i> , available <a href="#">here</a> .	None.  Md. Code Ann. Health Gen. § 19-351.
<b>Massachusetts</b>	Yes.  <i>McMurdo v. Getter</i> , 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).
<b>Michigan</b>	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).
<b>Minnesota</b>	Yes.  Minn. Op. Att'y Gen. No. 92-B-11 (Oct. 5, 1955); <i>Isles Wellness, inc. v. Progress N. Ins. Co.</i> , 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).
<b>Mississippi</b>	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.  Miss. Bd. of Med. Licensure, Policy 3.02, <i>Corporate Practice of Medicine</i> (revised Sept. 20, 2001).	N/A
<b>Missouri</b>	No.	N/A

State	CPOM Doctrine?	Description of Nonprofit Exception
	<i>State ex inf. McKittrick v. Gate City Optical Co.</i> , 97 S.W.2d 89 (Mo. 1936) (citing <i>State ex inf. Sager v. Lewin</i> , 106 S.W. 581 (Mo. Ct. App. 1907)).	
<b>Montana</b>	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.
<b>Nebraska</b>	No.  <i>State Electro-Med. Inst. v. State</i> , 103 N.W. 1078 (Neb. 1905).	N/A
<b>Nevada</b>	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.
<b>New Hampshire</b>	No.  N.H. Rev. Stat. § 293-A:1.01, <i>et seq.</i>	N/A
<b>New Jersey</b>	Yes.  N.J. Admin. Code § 13:35-6.16; <i>Allstate Ins. Co. v. Northfield Med. Ctr., P.C.</i> , 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).
<b>New Mexico</b>	No.  N.M. Admin. Code § 16.10.1.13(B).	N/A
<b>New York</b>	Yes.  <i>State v. Abortion Info. Agency, Inc.</i> , 69 Misc. 2d 825 (N.Y. Sup. Ct. 1971); <i>Andrew Carothers, M.D., P.C. v. Progressive Ins. Co.</i> , 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).
<b>North Carolina</b>	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, <i>Corporate Practice of Medicine</i> (Mar. 2016); N.C. Att'y Gen. Op. No. 43 (Dec. 9, 1955).
<b>North Dakota</b>	Yes.  N.D. Att'y Gen., Advisory Letter to Robert G. Hoy, Cass Cty State's Atty (October 23, 1990).	A nonprofit entity or charitable trust may employ a physician to conduct hyperbaric oxygen therapy  N.D.C.C. 43-17-42
<b>Ohio</b>	Yes.  Ohio Rev. Code § 4731.226.	Physicians may provide medical services through a nonprofit corporation or foundation.  Ohio Rev. Code § 4731.226(A)(1).
<b>Oklahoma</b>	No.  Okla. Att'y Gen. Op. No. 02-20 (May 8, 2002).	N/A

State	CPOM Doctrine?	Description of Nonprofit Exception
<b>Oregon</b>	Yes.  <i>State ex rel Sisemore v. Standard Optical Co.</i> , 182 Or 452, 188 P2d 309 (1947); Ore. Att’y Gen. Op. No. 7230 (1975).	None.  Ore. Att’y Gen. Op. No. 5689 (1984).
<b>Pennsylvania</b>	Yes.  <i>Neill v. Gimbel Bros., Inc.</i> , 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).
<b>Rhode Island</b>	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; <i>RIH Medical Foundation, Inc. v. Nolan</i> , 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).
<b>South Carolina</b>	Yes.  <i>Baird v. Charleston Cty., S.C.</i> , 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, <i>The Supervision of Unlicensed Personnel and the Corporate Practice of Medicine</i> (Oct. 4, 2017).
<b>South Dakota</b>	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: <ol style="list-style-type: none"> <li>1) interfere or regulate the physician’s medical judgement;</li> <li>2) result in profit by charging a greater fee for the physician’s services than an independent physician would;</li> <li>3) remain effective for an initial period of more than three years, after which annual renewal is permissible.</li> </ol> S.D. Codified Laws § 36-4-8.1
<b>Tennessee</b>	Yes.  Tenn. Code §§ 63-6-204; 68-11-205.	None.  Tenn. Code §§ 63-6-204; 68-11-205.
<b>Texas</b>	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;
<b>Utah</b>	No.  Utah Code Ann. §§ 58-67-802(1), 58-68-802(1), 58-67-501(1).	N/A
<b>Vermont</b>	No.  Vt. Stat. Ann. tit. 8, § 4581.	N/A
<b>Virginia</b>	No.  Va. Code § 54.111(D); Va. Bd. of Med., Guidance Doc. 85-21 (reviewed and aff’d Oct. 18, 2018).	N/A
<b>Washington</b>	Yes.  Wash. Rev. Code § 18.100.30(1); <i>Columbia Physical Therapy, Inc. v. Benton Franklin Orthopedic Assocs.</i> , 228 P.3d 1260 (Wash. 2010).	None.  <i>Columbia Physical Therapy, Inc. v. Benton Franklin Orthopedic Assocs.</i> , 228 P.3d 1260 (Wash. 2010) (“absent legislative authorization, a business entity may not employ medical professionals to practice their licensed professions”).

State	CPOM Doctrine?	Description of Nonprofit Exception
<b>West Virginia</b>	Yes.  W. Va. Code § 30-3-15; W. Va. Bd. Of Med., <i>Position Statement on the Corporate Practice of Medicine</i> (Mar. 19, 2018).	None.  W. Va. Code § 30-3-15.
<b>Wisconsin</b>	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: <ol style="list-style-type: none"> <li>1) the physician is a member of or acceptable to and subject to the approval of the organization's medical staff;</li> <li>2) the physician is permitted to exercise professional judgement without supervision or interference by the organization;</li> <li>3) the contract establishes the physician's remuneration; and</li> <li>4) The organization does not limit medical staff membership to employee physicians; and</li> <li>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.</li> </ol> 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).
<b>Wyoming</b>	No.  Wyo. Stat. §§ 17-3-101 through 17-3-104; Wyo. Att'y Gen. Op. No. 79-17 (1979).	N/A

**SENATE BILL NO. 2148**

**Presented by: Myra Quanrud MD FAAP, Medical Director, Anne Carlsen Jamestown**

**Before: Senate Human Services Committee, Senator Judy Lee, Chair**

**Date: January 24, 2023**

Good morning, Senator Lee and members of the committee. My name is Dr Myra Quanrud, and I am a pediatrician and the medical director of Anne Carlsen in Jamestown. I stand today in support of Senate Bill 2148.

My primary patient population is children with special healthcare needs, medical complexity, and behavioral complexity. Most of these individuals are at Anne Carlsen, but a good number reside in the community, both in and around Jamestown. Meeting their healthcare needs in the regular clinic can be challenging because of the absence of specialized equipment and the difficulties coordinating with the many team members from different disciplines. Without this kind of support, a visit can take *hours* longer, or may require referral outside the community. With specialized support, care is streamlined, informed, and more efficient.

Another population difficult to serve well in the regular clinic is the young adult population transitioning from ACC back to the community. These individuals need time and collaboration to make a successful transition to community care. While community physicians are more than capable of providing primary

care to individuals with exceptional needs, they often have not had much experience in this area. A specialty clinic can provide the “bridge” so that the community provider may become comfortable with their specific needs, and the individual may become comfortable with their community provider.

Anne Carlsen is currently undergoing a major building project and one of our long-term goals has been to open a clinic to meet the needs of this very specific and special population. We would be able to take advantage of equipment at hand rather than duplicating, and we could pull team members in whenever needed for multidisciplinary care, rather than care fragmented into phone calls and photographs between experts. Evidence from the American Academy of Pediatrics has shown that care coordinated in this fashion is higher quality, more cost-effective, and more satisfying to patients and parents. In addition, ER visits are fewer as are hospitalization days.

Without an exemption to the law governing the corporate practice of medicine, this type of clinic is very difficult to establish. To date, the best option we have found is to establish a “friendly professional corporation” owned by the physician. This is daunting to say the least. And what happens when the physician retires?

With an exemption to the law, ACC could develop a specialty clinic with its own staff and resources, which would truly be of benefit to the individuals we serve and the community at large. Ann Carlsen stands strongly **in support of SB 2148**.

## 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 (12)
- States with a CPOM doctrine and no nonprofit exceptions (10)

State	CPOM Doctrine?	Description of Nonprofit Exception
<b>Alabama</b>	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
<b>Alaska</b>	No.  Alaska Stat. § 08.64.170.	N/A
<b>Arizona</b>	Yes.  <i>Funk Jewelry Co. v. State ex rel. LaPrade</i> , 50 P.2d 945 (Ariz. 1935); <i>Midtown Med. Grp., Inc. v. State Farm Mut. Auto. Ins. Co.</i> , 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.
<b>Arkansas</b>	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).
<b>California</b>	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.
<b>Colorado</b>	Yes.  Colo. Rev. Stat. § 12-240-138(6)(a).	None.  Colo. Rev. Stat. § 25-3-103.7.
<b>Connecticut</b>	Yes.  Conn. Gen. Stat. § 20-9(a); Conn. Att'y Gen. Op. No. 248 (Dec. 2, 1954); Conn. Gen. Stat. §§ 33-182aa, <i>et seq.</i>	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.
<b>Delaware</b>	No.  Del. Code Ann. tit. 24, §§ 1701 <i>et seq.</i>	N/A
<b>District of Columbia</b>	Yes.  D.C. Code §§ 3-1201.02(7)(A), 29-502, 29-503.	None.
<b>Florida</b>	No.  In re: Petition for Declaratory Statement of Conrad Goulet, M.D., Case No. 89-COM-01 (1989) (statement published by the Florida Board of Medicine	N/A



State	CPOM Doctrine?	Description of Nonprofit Exception
	acknowledging Florida has not prohibited the corporate practice of medicine).	
<b>Georgia</b>	Yes.  <i>Sherrer v. Hale</i> , 285 S.E.2d 714 (1982); <i>Health Horizons, Inc. v State Farm Mutual Auto. Ins. Co.</i> , 521 S.E.2d 383 (1999); Ga. Comp. Med. Bd., Monthly Meeting Minutes, Executive Director's Report, para. 9 (June 7-8, 2012).	None.
<b>Hawaii</b>	No.  Haw. Rev. Stat. § 453-2; Haw. Rev. Stat. § 448-15.	N/A
<b>Idaho</b>	No.  Notes of Idaho State Bd. Of Med. Telephone Conference (Mar. 28, 2016).	N/A
<b>Illinois</b>	Yes.  225 ILCS 60/22.	None.  <i>Carter-Shields v. Alton Health Inst.</i> , 777 N.E.2d 948 (Ill. 2002) (refusing to extend the hospital exception to a charitable, nonprofit health organization).
<b>Indiana</b>	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).
<b>Iowa</b>	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).
<b>Kansas</b>	Yes.  Kan. Stat. Ann. §§ 65-2803, 65-2837, 65-2867.	Only nonprofit hospitals are exempt from the state's corporate practice prohibition.  <i>St. Francis Reg'l Med. Ctr., Inc. v. Weiss</i> , 869 P.2d 606 (Kan. 1994); Kans. Stat. Ann. § 65-28,134.
<b>Kentucky</b>	Yes.	Nonprofit entities providing medical services as a charitable health care provider registered with the state are exempt from the corporate practice prohibitions.

State	CPOM Doctrine?	Description of Nonprofit Exception
	Ky. Rev. Stat. § 311.560.	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).
<b>Louisiana</b>	Yes.  La. State Bd. of Med. Exm'rs, Statement of Position, <i>Employment of Physician by Corporation Other Than a Professional Medical Corporation</i> (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, <i>Employment of Physician by Corporation Other Than a Professional Medical Corporation</i> (Sept. 24, 1992, reviewed Mar. 21, 2001).
<b>Maine</b>	No.  Me. Bd. of Licensure, Opinion (Nov. 2, 1992); 13-B Code Me. R. § 1307.	N/A
<b>Maryland</b>	Yes.  Md. Bd. of Physicians, Statement, <i>Information on Corporate Issues</i> , available <a href="#">here</a> .	None.  Md. Code Ann. Health Gen. § 19-351.
<b>Massachusetts</b>	Yes.  <i>McMurdo v. Getter</i> , 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).
<b>Michigan</b>	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).
<b>Minnesota</b>	Yes.  Minn. Op. Att'y Gen. No. 92-B-11 (Oct. 5, 1955); <i>Isles Wellness, inc. v. Progress N. Ins. Co.</i> , 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).
<b>Mississippi</b>	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.  Miss. Bd. of Med. Licensure, Policy 3.02, <i>Corporate Practice of Medicine</i> (revised Sept. 20, 2001).	N/A
<b>Missouri</b>	No.	N/A

State	CPOM Doctrine?	Description of Nonprofit Exception
	<i>State ex inf. McKittrick v. Gate City Optical Co.</i> , 97 S.W.2d 89 (Mo. 1936) (citing <i>State ex inf. Sager v. Lewin</i> , 106 S.W. 581 (Mo. Ct. App. 1907)).	
<b>Montana</b>	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.
<b>Nebraska</b>	No.  <i>State Electro-Med. Inst. v. State</i> , 103 N.W. 1078 (Neb. 1905).	N/A
<b>Nevada</b>	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.
<b>New Hampshire</b>	No.  N.H. Rev. Stat. § 293-A:1.01, <i>et seq.</i>	N/A
<b>New Jersey</b>	Yes.  N.J. Admin. Code § 13:35-6.16; <i>Allstate Ins. Co. v. Northfield Med. Ctr., P.C.</i> , 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).
<b>New Mexico</b>	No.  N.M. Admin. Code § 16.10.1.13(B).	N/A
<b>New York</b>	Yes.  <i>State v. Abortion Info. Agency, Inc.</i> , 69 Misc. 2d 825 (N.Y. Sup. Ct. 1971); <i>Andrew Carothers, M.D., P.C. v. Progressive Ins. Co.</i> , 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).
<b>North Carolina</b>	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, <i>Corporate Practice of Medicine</i> (Mar. 2016); N.C. Att'y Gen. Op. No. 43 (Dec. 9, 1955).
<b>North Dakota</b>	Yes.  N.D. Att'y Gen., Advisory Letter to Robert G. Hoy, Cass Cty State's Atty (October 23, 1990).	A nonprofit entity or charitable trust may employ a physician to conduct hyperbaric oxygen therapy  N.D.C.C. 43-17-42
<b>Ohio</b>	Yes.  Ohio Rev. Code § 4731.226.	Physicians may provide medical services through a nonprofit corporation or foundation.  Ohio Rev. Code § 4731.226(A)(1).
<b>Oklahoma</b>	No.  Okla. Att'y Gen. Op. No. 02-20 (May 8, 2002).	N/A

State	CPOM Doctrine?	Description of Nonprofit Exception
<b>Oregon</b>	Yes.  <i>State ex rel Sisemore v. Standard Optical Co.</i> , 182 Or 452, 188 P2d 309 (1947); Ore. Att’y Gen. Op. No. 7230 (1975).	None.  Ore. Att’y Gen. Op. No. 5689 (1984).
<b>Pennsylvania</b>	Yes.  <i>Neill v. Gimbel Bros., Inc.</i> , 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).
<b>Rhode Island</b>	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; <i>RIH Medical Foundation, Inc. v. Nolan</i> , 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).
<b>South Carolina</b>	Yes.  <i>Baird v. Charleston Cty., S.C.</i> , 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, <i>The Supervision of Unlicensed Personnel and the Corporate Practice of Medicine</i> (Oct. 4, 2017).
<b>South Dakota</b>	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: <ol style="list-style-type: none"> <li>1) interfere or regulate the physician’s medical judgement;</li> <li>2) result in profit by charging a greater fee for the physician’s services than an independent physician would;</li> <li>3) remain effective for an initial period of more than three years, after which annual renewal is permissible.</li> </ol> S.D. Codified Laws § 36-4-8.1
<b>Tennessee</b>	Yes.  Tenn. Code §§ 63-6-204; 68-11-205.	None.  Tenn. Code §§ 63-6-204; 68-11-205.
<b>Texas</b>	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;
<b>Utah</b>	No.  Utah Code Ann. §§ 58-67-802(1), 58-68-802(1), 58-67-501(1).	N/A
<b>Vermont</b>	No.  Vt. Stat. Ann. tit. 8, § 4581.	N/A
<b>Virginia</b>	No.  Va. Code § 54.111(D); Va. Bd. of Med., Guidance Doc. 85-21 (reviewed and aff’d Oct. 18, 2018).	N/A
<b>Washington</b>	Yes.  Wash. Rev. Code § 18.100.30(1); <i>Columbia Physical Therapy, Inc. v. Benton Franklin Orthopedic Assocs.</i> , 228 P.3d 1260 (Wash. 2010).	None.  <i>Columbia Physical Therapy, Inc. v. Benton Franklin Orthopedic Assocs.</i> , 228 P.3d 1260 (Wash. 2010) (“absent legislative authorization, a business entity may not employ medical professionals to practice their licensed professions”).

State	CPOM Doctrine?	Description of Nonprofit Exception
<b>West Virginia</b>	Yes.  W. Va. Code § 30-3-15; W. Va. Bd. Of Med., <i>Position Statement on the Corporate Practice of Medicine</i> (Mar. 19, 2018).	None.  W. Va. Code § 30-3-15.
<b>Wisconsin</b>	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: <ol style="list-style-type: none"> <li>1) the physician is a member of or acceptable to and subject to the approval of the organization's medical staff;</li> <li>2) the physician is permitted to exercise professional judgement without supervision or interference by the organization;</li> <li>3) the contract establishes the physician's remuneration; and</li> <li>4) The organization does not limit medical staff membership to employee physicians; and</li> <li>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.</li> </ol> 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).
<b>Wyoming</b>	No.  Wyo. Stat. §§ 17-3-101 through 17-3-104; Wyo. Att'y Gen. Op. No. 79-17 (1979).	N/A



**House Human Services Committee  
SB 2148  
March 8, 2023**

Chairman Weisz and Committee Members, I am Courtney Koebele and I serve as Executive Director for the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

The North Dakota Medical Association is in strong support of SB 2148. This issue was adopted at our 2022 Policy Forum based on a submission by William Noyes, MD, who is here today to testify.

This bill allows non-profit entities & charitable trusts the right to employ their own physicians when the employment relationship between the physician and the non-profit entity or trust is evidenced by a written contract that includes language protecting the physician's independent judgement in their practice of medicine. Other states in the country have similar exemptions from their corporate practice of medicine laws for non-profits and other public benefit type organizations.

In 1991, the law did refer to "non-profits" but at that time, all hospitals in the state were non-profits. In 1993, this law was updated to refer instead to licensed hospitals because a hospital changed statuses to become for-profit. It remained that way until last session when section 2 was added to the bill allowing non-profits to hire physicians to conduct hyperbaric oxygen therapy. This bill would remove the hyperbaric language and allow all non-profits to hire physicians.

For the above stated reasons, we request your support for SB 2148.

Thank you.

**House Human Services Committee – Pioneer Rm**  
**SB 2148**  
**March 8, 2023**

Chair Lee and Committee Members, I am Dr. Bill Noyes and I serve on the Commission for Legislation for the North Dakota Medical Association. I am a physician in Grand Forks at the Cancer Center of North Dakota which is a for-profit free-standing cancer center helping patients in this region since 2004 and this May will have been open for 19 years.

As a physician, I am in strong support of SB 2148. As you are aware, there are 9 states with a Corporate Practice of Medicine law plus the District of Columbia that do not allow non-profit exceptions to hire physicians. As mentioned earlier, in North Dakota, only hospitals and non-profit hyperbaric oxygen centers are able to hire physicians provided the contract contains language that it will not affect the physician's ability to render an independent judgement in the practice of medicine.

Furthermore, the law as it is written represents an inequity in employment, since physicians are the only healthcare profession exempt from non-profit employment. Other professions such as physician assistants, nurses and nurse practitioners are able to choose non-profit employment options.

Presently, there are several non-profit clinics in North Dakota which hire physicians as independent contractors but do not directly hire them. Further, if a physician or physician group would elect to form a non-profit clinic to better serve their patients and their region, they are not able to directly hire physicians due to the current prohibition.

This proposed change would allow physicians another employment choice whether it be non-profit entities or charitable organizations and protect their ability to maintain an independent judgement in the practice of medicine. This is the standard in 40 other states.

For the above stated reasons, I request your support for SB 2148.

Thank you.

William (Bill) Noyes MD

**SENATE BILL NO. 2148**

**Presented by: Myra Quanrud MD FAAP, Medical Director, Anne Carlsen Jamestown**

**Before: House Human Services Committee, Representative Robin Weisz, Chair**

**Date: March 8, 2023**

Good afternoon, Representative Weisz and members of the committee. My name is Dr Myra Quanrud, and I am a pediatrician and the medical director of Anne Carlsen in Jamestown. I stand today in support of Senate Bill 2148.

My primary patient population is children with special healthcare needs, medical complexity, and behavioral complexity. Most of these individuals are at Anne Carlsen, but a good number reside in the community, both in and around Jamestown. Meeting their healthcare needs in the regular clinic can be challenging because of the absence of specialized equipment and the difficulties coordinating with the many team members from different disciplines. Without this kind of support, a visit can take *hours* longer, or may require referral outside the community. With specialized support, care is streamlined, informed, and more efficient.

Another population difficult to serve well in the regular clinic is the young adult population transitioning from ACC back to the community. These individuals need time and collaboration to make a successful transition to community care. While community physicians are more than

[annecarlsen.org](http://annecarlsen.org)

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capable of providing primary care to individuals with exceptional needs, they often have not had much experience in this area. A specialty clinic can provide the “bridge” so that the community provider may become comfortable with their specific needs, and the individual may become comfortable with their community provider.

Anne Carlsen is currently undergoing a major building project and one of our long-term goals has been to open a clinic to meet the needs of this very specific and special population. We would be able to take advantage of equipment at hand rather than duplicating, and we could pull team members in whenever needed for multidisciplinary care, rather than care fragmented into phone calls and photographs between experts. Evidence from the American Academy of Pediatrics has shown that care coordinated in this fashion is higher quality, more cost-effective, and more satisfying to patients and parents. In addition, ER visits are fewer as are hospitalization days.

Without an exemption to the law governing the corporate practice of medicine, this type of clinic is very difficult to establish. To date, the best option we have found is to establish a “friendly professional corporation” owned by the physician. This is daunting to say the least. And what happens when the physician retires?

With an exemption to the law, ACC could develop a specialty clinic with its own staff and resources, which would truly be of benefit to the individuals we serve and the community at large. Anne Carlsen stands strongly **in support of SB 2148.**