

FSMB Sharpens Regulator Focus on Corporate Influence and Oversight of Clinical Decision Making: What Physicians, MSOs, and Investors Need to Know

Insights

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On May 2, 2026, the Federation of State Medical Boards (“FSMB”) approved the [Report and Recommendations of the Workgroup on the Oversight of Clinical Decision Making](#) (“The FSMB Report”). The FSMB Report is the product of a two-year examination of third-party influence over physicians’ clinical judgment, with a particular focus on corporatization, restrictive employment arrangements, and utilization review as outcome determinative forces in patient care. Its release comes amid increased efforts by legislatures, attorneys general, and state medical boards to address corporate influence in medicine.

At its core, the FSMB Report reaffirms that a physician’s ethical and professional responsibilities to act in a manner that supports patient welfare is the guiding principle for all practice settings, regardless of the physician’s employment status or other contractual arrangements. Physicians must avoid corporate and financial structures that compromise their loyalty to patients, while also being transparent with information about how institutional or payor policies may limit a patient’s treatment options. The FSMB Report notes that accountability for ensuring the primacy of patient welfare extends to “organizations and entities that structure practice arrangements, impose productivity expectations, implement utilization management programs, or otherwise influence clinical care.” Medical boards are urged to modify their oversight approaches to ensure that third-party entities do not undermine physicians’ ability to meet their professional obligations.

Importantly, the FSMB Report recognizes that private investment and third-party participation in clinical care can support practice growth and improve operational efficiency, factors that are often overlooked as important systemic factors related to the broader effort to increase access to care. By acknowledging these realities, the FSMB Report may temper efforts to expand conduct-based or structurally-based prohibitions on PC/MSO arrangements that have recently been enacted in California and Oregon. The FSMB Report offers defensible guardrails for structuring PC/MSO relationships and provides both regulators and market participants a reference point for allocating control and financial interests in a manner that reduces corporate practice risk, safeguards clinical judgment, and supports patient centered care.

PROFESSIONAL



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Key Recommendations of the Report

Medical boards are encouraged to exercise greater oversight to address growing concerns with corporatization of health care and the associated public mistrust with medicine in general. Highlights and key recommendations of the policy include:

Call for Greater Enforcement of Corporate Practice of Medicine

Medical boards in jurisdictions with corporate practice of medicine statutes are urged to coordinate with state legislatures, attorneys general, insurance regulators, and other relevant state agencies to strengthen enforcement against improper corporate control of clinical decisions. The FSMB Report suggests that enforcement actions should be directed at “the entities and individuals responsible for structuring and enforcing such arrangements, rather than placing sole or disproportionate responsibility on employed physicians functioning within constrained practice settings.” Medical boards are also urged to consider whether registration requirements for management services organizations (MSOs) would assist in greater oversight.

Meaningful Ownership Defined and Must Be Demonstrable

Physician owners of PCs must be able to demonstrate meaningful participation in delivery of care. Straw ownership, a central focus of recent legislation and enforcement actions, is defined as nominal ownership by a physician with effective control over treatment, referrals, prescribing, and care coordination residing in a non-physician or corporate entity. The [North Carolina Medical Board has cautioned licensees](#) that a management agreement that results in the bulk of the practice’s revenue going to the non-licensee is evidence of straw ownership. The FSMB Report provides a framework to assess meaningful ownership that includes factors such as:

1. The PC Owner is licensed in the state where practice operates;
2. The PC Owner is actively engaged in making clinical decisions or otherwise substantively involved in practice management and operations; and
3. The PC Owner has ultimate authority over key practice decisions including the development and implementation of clinical policies, hiring and firing of staff, payor contracting and financial distributions.

Impermissible Third-Party Influence and Interference

The FSMB Report calls for greater articulation of what constitutes improper third-party influence over clinical decisions. Examples of improper interference include retaliatory actions against physicians for acting in patients’ best interests, mandating discharge before medically appropriate, or prohibiting referrals. Establishing patient volume or time limits that prevent physicians from providing adequate care is specifically identified in the FSMB Report as evidence of improper interference.

Duty to Report and Investigate Claims of Improper Interference

Contractual provisions, explicit or implied, that prevent physicians from reporting undue influence of third parties on clinical matters—including patient safety concerns and quality of care issues— are framed as contrary to professional obligations and public policy. Physicians are directed to scrutinize nondisclosure agreements, non-competes, and non-disparagement clauses before signing. To support greater enforcement of violations, medical boards are encouraged to establish reporting and investigation mechanisms to carry out their statutory duties to address patient safety issues.

Licensure Requirements for Practice Ownership and Utilization Review

The FSMB Report urges medical boards to consider whether all physicians that are owners of a medical practice should be required to hold a license in that state. Although states such as California, Illinois, and New York have strict requirements in place, this guideline addresses accountability gaps noted in states with weaker corporate practice of medicine regulations and would permit greater legal authority for regulators in states where no formal corporate practice of medicine law exists to address ethical and professional violations.

Similarly, medical boards are urged to consider whether an out-of-state physician performing utilization reviews for patients should hold a license to practice in the state where the patient is located. The FSMB Report calls for state legislation to require that determinations of medical necessity be made by a physician licensed in the state where the patient is located who practices within the same or similar specialty. However, the FSMB Report acknowledges that broader reforms to address issues involving payors and utilization review will require joint effort with state insurance regulators.

INDUSTRY IMPLICATIONS

Policies and reports from the FSMB function as model guidance and states are not bound to adopt the policy recommendations, either in part or in whole. State medical boards located in jurisdictions with strong enforcement of the corporate practice of medicine doctrine are expected to be early adopters of many of the recommendations contained in the FSMB Report as part of efforts to further supplement existing law. The FSMB Report may also influence the ongoing debate regarding corporate practice issues in states such as Illinois, Massachusetts, North Carolina, Vermont, and Washington—all of which have seen recent legislative efforts to reaffirm physician autonomy and mitigate corporate influence.

The FSMB Report also arrives amid a rapidly developing litigation environment shaped by recent legislative changes. In Oregon, the law passed in 2025 restricting use of the PC/MSO model faces its first judicial test in *Stapleton et al. v. PeaceHealth et al.*, a case which will answer whether common elements of PC/MSO models used throughout the country satisfies statutory ownership and management requirements under Oregon law. In late March, the [New York Attorney General announced a settlement](#) with a correctional health care provider after finding it illegally practiced medicine through its effective control over medical decisions at a county correctional facility. [Recent activity by the California Attorney General is drawing attention](#) as a signal of the intention of that office to more aggressively police corporate influence over the delivery of medicine through the PC/MSO model. Indeed, the amicus brief filed by the Attorney General in *Art Center Holdings, Inc. v. WCE CA Art, LLC* condemns the use of a share transfer restriction agreement between an MSO and a PC, opining that a contractual right that allows MSOs to require physicians to sell their shares in a PC at any time effectively gives a MSO unilateral control over a PC. Together, these developments underscore the increasing legal risk surrounding legacy structures and the likelihood of more active enforcement and private litigation in this area.

Health care investors and operators should work closely with experienced legal counsel to review corporate governance structure and operational documents used in PC/MSO arrangements, with attention ensuring sufficient physician involvement and authority over clinical policies and staff decisions. But as noted, the FSMB Report stops short of adopting the strict enforcement positions found in Oregon and California. Incorporating elements of the FSMB Report may be helpful evidence of a compliant structure should a practice or business relationship become subject to enforcement actions in the future. The FSMB Report also offers principles derived from a consensus of state medical regulators that may prove helpful to advocate against future legislative proposals and enforcement actions that threaten to destabilize existing practice models and thwart further investment that supports greater access to care.

Health systems, large group practices, and payors should closely examine whether productivity-based compensation models, restrictive covenants in physician contracts, and internal reporting requirements create risk by diverting attention from patient safety or otherwise impairing independent clinical judgment. These protocols were highlighted by the FSMB Report as additional avenues of corporate influence that detract from physician independence. In light of increasing calls for in-state licensure for physicians engaged in utilization review, these groups should also consider proactively securing licensure for physicians engaged in utilization review through the Interstate Medical Licensure Compact's expedited process. With over 40 jurisdictions as members, use of this pathway can reduce regulatory exposure and help avoid future operational disruptions resulting from changes in licensure requirements.

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