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Health Care Alert: State Medical Board of Ohio Declares that Ohio Law Does Not Prohibit the Corporate Practice of Medicine

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For the first time in decades, an Ohio agency has issued a statement on the status of the corporate practice of medicine prohibition. On March 15, 2012, the State Medical Board of Ohio (the Medical Board) published a statement unequivocally declaring that Ohio law does not prohibit an Ohio licensed physician from rendering medical services as an employee of a corporation or any other form of business entity.

The Medical Board focused primarily on Section 4731.226 of the Ohio Revised Code ("Authorized Forms of Business Entities for Providing Services") in determining that Ohio no longer prohibits the corporate practice of medicine. Section 4731.226 provides, in part, that a licensed physician may render professional services through a corporation, limited liability company, partnership, or a professional association. The Medical Board acknowledged that there are Ohio Attorney General Opinions and an Ohio Supreme Court case relating to the corporate practice of medicine prohibition. These sources, however, predate the legislative enactment of Section 4731.226, which, according to the Medical Board, makes it clear that the corporate practice of medicine doctrine no longer exists in Ohio. As such, the Medical Board recognized that a licensed doctor of medicine and surgery, osteopathic medicine and surgery or podiatric medicine and surgery may provide medical services through a 1701 corporation, 1705 limited liability company, 1785 professional association, a partnership, or any other form of business entity, including, but not limited to, a nonprofit corporation or foundation.

Although the Medical Board takes the position that there is no corporate practice of medicine prohibition, there are still certain limitations on the corporate employment of physicians. Pursuant to Section 4729.552(B)(1) of the Ohio Revised Code, pain management clinics must be owned by one or more doctors of medicine and surgery or osteopathic medicine and surgery. Additionally, no matter the business entity, a physician must exercise professional judgment to render medical services based on the best interest of the patient and within the minimal standards of care of similar practitioners under the same or similar circumstance. Finally, there has been no official

statement from the Ohio Attorney General who, as the Board recognized, previously opined on the existence of the corporate practice prohibition. Absent a contrary position from the Ohio Attorney General, the Medical Board's statement gives tremendous support for the proposition that corporations and other business entities may employ physicians to render medical services.

Read the Medical Board's statement.