

# MAINE STATE LEGISLATURE

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*Corporations, Capacity to hire physicians to provide health care*

*Physicians' Practice by Corporations*

*32 M.R.S.A. §3151 et seq.*

*24 A M.R.S.A. §2401*

JOSEPH E. BRENNAN *Health Maintenance Organizations*  
ATTORNEY GENERAL



RICHARD S. COHEN  
JOHN M. R. PATERSON  
DONALD G. ALEXANDER  
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

March 24, 1977

Senator Richard H. Pierce  
The Senate of Maine  
State House  
Augusta, Maine 04330

Dear Senator Pierce:

In your letter of March 17, 1977, you request an opinion on whether it is lawful for a non-profit corporation to hire physicians to provide health care to Maine citizens. My response to this question is in the affirmative. Neither the Maine corporation statutes, 13 M.R.S.A. §1 et seq., nor the statutes relating to the licensure of physicians, 32 M.R.S.A. §3151 et seq., prohibit the employment of physicians by a non-profit corporation.

You inquire further whether the employment of physicians by a non-profit corporation would constitute the practice of medicine by that corporation. Maine statutes relating to physicians, 32 M.R.S.A. §3270, define the practice of medicine and require that no person shall practice medicine or surgery unless duly registered and licensed by the Board of Registration in Medicine. Any physicians employed by a corporation to practice medicine in the State of Maine would be required to meet these registration requirements. It does not appear that the hiring of a physician to provide health care services would constitute the practice of medicine by a corporation.

I note that Health Maintenance Organizations are specifically defined and regulated in 24A M.R.S.A. §2401 et seq., known as the Health Maintenance Organization Act of 1975. A Health Maintenance Organization is an organization which provides the following services:

1. Provides, arranges for, pays for or reimburses the cost of health care services, including at a minimum basic health care services to enrolled participants;

2. Is compensated, except for reasonable copayments, for basic health care services to enrolled participants ~~solely~~ solely on a predetermined periodic rate basis;

3. Provides physicians' services primarily directly through physicians who are either employees or partners of such organization, or through plans organized on a group practice or individual practice basis under which all such physicians and groups are provided effective incentives to avoid unnecessary or unduly costly utilization, regardless of whether any physician is individually compensated primarily on a fee-for-service basis or otherwise; and

4. Assures the availability, accessibility and quality, including effective utilization of the health care services which it provides or makes available through clearly identifiable focal points and administrative responsibility.

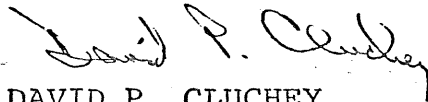
The Health Maintenance Organization Act of 1975 provides that no person shall establish or operate a Health Maintenance Organization without obtaining a certificate of authority as provided under the applicable sections of Title 24A.

Your final question is whether the answer to the two previous questions would depend upon the type of corporate entity providing the service. My answer to this question is a qualified no. There is no prohibition on a profit-making corporation providing health care services to citizens of the State of Maine. However, a group of physicians organized on a profit-making basis would be required to comply with the Professional Services Corporation Act, 13 M.R.S.A. §701 et seq. which specifically provides for such a corporate organization.

March 24, 1977

If you have any further questions in regard to this matter,  
I would be pleased to respond to them.

Very truly yours,



DAVID P. CLUCHEY  
Assistant Attorney General

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