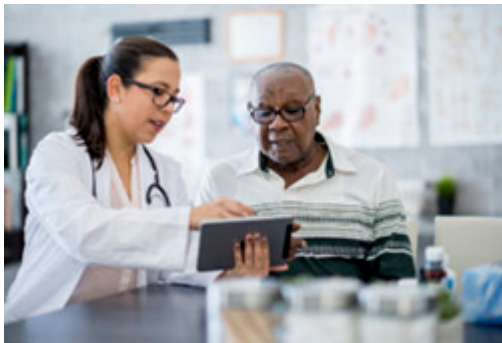


California Physicians Allege PE-Backed Provider Violates Corporate Practice Law



On December 20, 2021, a group of emergency medicine physicians in California filed suit against a private equity-backed health care services company, claiming that (among other things), the company has run afoul of the state’s prohibition on the corporate practice of medicine (“CPOM”) since it took over an emergency department at a California hospital. The plaintiff is the [American Academy of Emergency Medicine Physician Group](#), or “AAEM”; and the defendant is Envision Healthcare (“Envision”), which is owned by the private-equity firm Kohlberg Kravis Roberts.

Generally, CPOM laws, which can be found in almost every state, are designed to prohibit corporations, lay entities, or any non-licensed persons from practicing medicine, employing physicians, or owning physician practices or health care facilities. California’s [CPOM law](#) is fairly strict and is more regularly enforced compared to other states that rarely enforce their statutory prohibition.

In the California matter, Envision contracts with health systems to provide practice management services, such as billing and collection, communication with vendors and financial reporting. In its [complaint](#), AAEM provides several examples of how it believes Envision exercises “profound and pervasive direct and indirect control over the physicians’ practice of medicine.” For example, according to the plaintiffs, Envision appoints medical directors, who are employed directly by Envision, for each entity that Envision controls. AAEM alleges that, because Envision exercises control over the medical directors, it is actually *Envision* making medical decisions, not the licensed professionals. AAEM further claims that because Envision controls physician employment, physician scheduling, staffing levels, and number of patient encounters and denies physicians the right to appeal via traditional medical staffing mechanisms, it is again Envision – not the medical directors – that make decisions for contracted health systems, thereby violating the CPOM laws.

AAEM also claims that Envision is participating in illegal fee-sharing since Envision codes and bills on a physician’s behalf, without physicians seeing what is billed or remitted in their names. Finally, AAEM takes issue with Envision’s requirement of physician’s executing restrictive covenants, prohibited the physician from assisting or joining any other emergency medicine group.

The AAEM lawsuit does not seek monetary damages; rather, the emergency medicine doctors are seeking an injunction to prevent Envision from operating the emergency department at Placentia-Linda Hospital and at least a dozen other emergency departments in the state. We will continue to monitor this case and its outcome, which could have a bearing on how the CPOM laws (at least in California) are applied to private equity-backed health care arrangements.