



June 19, 2024

The Honorable Richard D. Roth
Chair, Committee on Health
California State Senate
1021 O Street, Suite 7510
Sacramento, CA 95814-4900

The Honorable Janet Nguyen
Vice-Chair, Committee on Health
California State Senate
1021 O Street, Suite 7130
Sacramento, CA 95814-4900

RE: ATA ACTION OPPOSITION TO ASSEMBLY BILL 3129 UNLESS AMENDED

Dear Chair Roth, Vice-Chair Nguyen and members of the Senate Health Committee,

On behalf of ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, I am writing to express opposition to AB 3129 (Wood) related to health care system consolidation as currently drafted. Specifically, ATA Action requests the language prohibiting contracts between medical practices and entities providing management services be struck from the legislation.

Throughout California, many medical practices – those that deliver care through telehealth as well as in-person – have operated using a model where non-physician entities provide management services and/or investment capital, while the provider controls all clinical decisions, protocols, and patient care. This structure allows providers to maximize time on patients and contract out nonmedical duties, including billing, credentialing, and contracting, to other personnel. Importantly, this structure has also helped medical providers in California access needed financing and investment to expand their practice and innovate, including emerging telehealth companies who aim to reach underserved and often stigmatized populations.

ATA Action has significant concern that Section 1190.40 of the legislation will jeopardize this long-established model and disrupt access to care for millions of Californians. Specifically, Section 1190.40(c)(2) would impose a sweeping mandat prohibiting medical, dental and psychiatric practices from contracting with an entity to perform *any* business or management services for a management fee if that entity takes investment—even indirectly or in part—from private equity, hedge fund, venture capital fund and many other forms of private investment.

This broad limitation on doctors' freedom of contract and ability to partner with investors will have dire consequences for telehealth access in California. Telehealth platforms—often investor backed in order to innovate and grow—operate by collecting a fee in exchange for the practitioner's use of the platform to reach patients. AB 3129 will therefore broadly prohibit California medical professionals from contracting with telehealth platforms whatsoever. This impact cannot be understated, particularly for burgeoning telehealth services that are treating patients in fields where innovation is desperately needed, such as

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reproductive health, addiction treatment and behavioral health counseling. Thus, AB 3129 will result in an overnight reduction in access to affordable, high-quality telehealth services for millions of Californians, especially low-income and underserved citizens.

Furthermore, this provision is wholly unnecessary. Other proposed guardrails in the legislation (particularly 1190.40(a)) are far more appropriately tailored for safeguarding practitioner autonomy and professional judgement from inappropriate corporate influence. These proposed guardrails would add to already existing California corporate practice of medicine laws—some of the nation’s strongest—such as Business Professions Code 2052, Code 2400, and Medical Board guidelines. In combination, ATA Action believes these laws provide a comprehensive foundation to ensure providers have control over their medical practices and the clinical decisions they make when treating patients, without risking the ability of doctors to contract with telehealth platforms or to secure additional investment in their practices – a principle we strongly agree with the author on.

Finally, ATA Action does not oppose Section 1190.40(c)(1), with minor revision, which would appropriately reaffirm California’s commitment to ensuring that health care practitioners have full autonomy over clinical decision making. In summary and to remove our opposition, ATA Action respectfully recommends the following amendments be adopted:

Strike: *1190.40(c)(2) Any physician, dental, or psychiatric practice doing business in this state shall not enter into any agreement, or arrangement, with a private equity group, hedge fund, or any entity controlled directly or indirectly in whole or in part by a private equity group or hedge fund for the furnishing of any business or management services in exchange for a fee that is passed through by that practice directly or indirectly to any payor, purchaser or physician services, or patient.*

Adopt: *1190.40(c)(1) A private equity group or hedge fund, or an entity controlled directly or indirectly in whole or in part by a private equity group or hedge fund, shall not enter into any agreement, or arrangement, with any physician, psychiatric, or dental practice doing business in this state, which agreement or arrangement would enable the person or entity to interfere with the professional judgment of physicians, psychiatrists, or dentists in making health care decisions as set forth in subdivision (a)(1) or exercise control over or be delegated the powers set forth in subdivision (a)(2).*

We thank you for the opportunity to comment. **We urge you and your colleagues to amend AB 3129 in the interest of ensuring efficient and effective access to high-quality, affordable health care.**

Please do not hesitate to let us know how we can be helpful in your efforts to advance common-sense telehealth policy in California. If you have any questions or would like to discuss the telehealth industry’s perspective further, please contact me at kzebley@ataaction.org.

Kind regards,

Kyle Zebley
Executive Director
ATA Action

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