



OLR RESEARCH REPORT

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MEDICAL FOUNDATIONS

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You asked several questions about medical foundations, including (1) what is a medical foundation as defined in our statutes and what is its relationship to non-profit hospitals in our state, (2) do all our for-profit or nonprofit hospitals have a medical foundation, and (3) are medical foundations regulated or defined in other states?

SUMMARY

In general, medical foundations are a mechanism allowing hospitals and certain other health care entities to create nonprofit legal entities to employ physicians or certain other health care providers. Medical foundations provide more flexibility for hospitals seeking to directly employ physicians and other providers.

Medical foundations were first authorized in Connecticut in 2009, through [PA 09-212](#) (codified at [Chapter 594b](#) of the General Statutes). Connecticut's medical foundations law authorizes a hospital or health system organized as a nonstock (nonprofit) corporation or medical school meeting certain criteria to organize and become a member of a medical foundation to practice medicine and provide health care services through employees or agents who are licensed physicians and certain other providers. By law, medical foundations must be nonprofit entities.

The governor recently vetoed [PA 13-278](#), which would have expanded the list of entities that may be members of a medical foundation to include for-profit entities that have entered into a letter of intent on or before August 1, 2013 with Greater Waterbury Health Network, Inc., Bristol Hospital and Health Care Group, Inc., or another hospital or health system.

The existing medical foundations law (1) allows mergers and consolidations of medical foundations under certain circumstances, (2) allows corporations organized under certain other state laws to bring themselves under the law's provisions, and (3) establishes certain requirements regarding what must appear in the foundation's name. Among other provisions, medical foundations must also provide certain documents to the Office of Health Care Access (OHCA).

According to the Department of Public Health, there are currently 11 medical foundations in Connecticut; a list is attached to this report. They were formed by nonprofit hospitals or the other entities allowed under existing law. Not all nonprofit hospitals have formed medical foundations. Prior to the passage of [PA 13-278](#), the law did not allow for-profit hospitals to form medical foundations.

Some other states also have medical foundations or similar entities, notably California. California law has allowed for medical foundations since 1980.

Below, we summarize Connecticut's medical foundation law. We also briefly describe medical foundations in California.

CONNECTICUT MEDICAL FOUNDATIONS LAW

Definitions

Under the medical foundations law, a hospital is a nonstock corporation organized under the current nonstock corporation law or any predecessor statute, or by special act, and licensed as a hospital under state law.

A health system is a nonstock corporation organized under the current nonstock corporation law or any predecessor statute, consisting of a parent corporation of one or more hospitals licensed under state law, and affiliated through governance, membership, or some other means.

A medical school is a school of allopathic (or conventional) medicine leading to the M.D. degree that is (1) accredited by the Liaison Committee

on Medical Education and (2) affiliated through governance with or part of a university that is incorporated in Connecticut or established under state law and accredited by the New England Association of Schools and Colleges Commission on Institutions of Higher Education (CGS § [33-182aa](#)).

Organization

The law authorizes a hospital, health system, or medical school to organize and become a member of a medical foundation under the nonstock corporation law to practice medicine and provide health care services as a medical foundation through its employees or agents who are licensed physicians, chiropractors, optometrists, or podiatrists. The foundation must be governed by a board of directors consisting of an equal or greater number of providers than non-provider member employees, in addition to any other directors elected by the members. The law prohibits a medical foundation from operating for profit and authorizes it to operate at whatever locations its members designate (CGS § [33-182bb](#)).

Filings with OHCA

The law requires a medical foundation organized on or after July 1, 2009 to file a copy of its certificate of incorporation and any amendments with OHCA within 10 business days after it files them with the secretary of the state pursuant to the nonstock corporations law.

Any medical group clinic corporation that amends its certificate of incorporation, as specified below, to fall within the medical foundations law must file with OHCA a copy of the certificate and any amendments that comply with the law's requirements within 10 business days after it files them with the secretary of the state.

The law also requires that any medical foundation, regardless of when organized, file notice with OHCA and the secretary of the state of its liquidation, termination, dissolution, or cessation of operations within 10 business days after a vote by its board of directors or members to take such action.

Within 10 business days after receiving a written request from OHCA, a medical foundation must provide it with a (1) statement of its mission and a description of the services it provides and (2) description of any significant change in its services during the preceding year as reported on its most recently filed Internal Revenue Service return of organization exempt from income tax form (CGS § [33-182bb](#)).

The law excludes medical foundations organized under [Chapter 594b](#) from the definition of “affiliate” in the OHCA statutes (CGS § [19a-630](#)). Among other things, this exempts the establishment of a medical foundation from certificate of need requirements.

Powers and Limitations of Medical Foundations

A medical foundation is prohibited from engaging in any business other than rendering the health care services for which it was specifically incorporated. The law does not prohibit a medical foundation from investing its funds in real estate, mortgages, stocks, bonds, or other type of investments, or from owning real or personal property incidental to rendering professional services (CGS § [33-182dd](#)).

Other Corporations

The medical foundations law specifies that it does not automatically apply to any corporation organized to practice medicine and provide health care services to the public under any other law specifically authorizing a corporation to provide such services that was valid when the corporation was organized. The law allows these corporations to bring themselves within the provisions of the medical foundations law by (1) amending their certificates of incorporation to be consistent with such law and (2) affirmatively stating in the amended certificate that the members have elected to bring the corporation under the law’s provisions. Any provider agreement with the Department of Social Services remains in effect regardless of any amendment to the corporation’s certificate of incorporation.

The law also specifies that a medical group clinic corporation formed under the Medical Group Clinic Corporation Law (CGS [Chapter 594](#), revised to 1995), that was in existence on September 30, 1995 and continuing to operate from September 30, 1995, until July 1, 2009, continues to be duly organized if it elected by July 10, 2010 to bring itself within the medical foundation law’s provisions (CGS § [33-182bb](#)).

The Medical Group Clinic Corporations Law (CGS [Chapter 594](#)) was repealed in 1995. It authorized three or more licensed health care professionals to form a nonstock corporation to own, operate, and maintain a clinic to (1) study, diagnose, and treat illnesses and injuries by licensed persons and (2) promote medical, surgical, and scientific research and learning. Such corporations could operate for profit.

Corporate Name

The law requires corporate names of a medical foundation to contain the word “corporation” or the abbreviation “Inc.” or “Corp.” The corporate name must also (1) contain a word or words describing the professional service the corporation will render or (2) include a reference to the name of the member hospital, health system, or medical school (CGS § [33-182ee](#)).

Applicability of Nonstock Corporation Law

The law specifies that the nonstock corporation law applies to a medical foundation organized under Chapter 594b. But any of that chapter’s provisions that conflict with the nonstock corporation law are controlling (CGS § [33-182ff](#)).

Merger and Consolidation

The law allows a medical foundation organized under Chapter 594b to consolidate or merge only with:

1. another such medical foundation;
2. a medical group clinic corporation organized under [Chapter 594](#), that chooses to come within [Chapter 594b’s](#) provisions;
3. a professional services corporation organized under [Chapter 594a](#);
or
4. a limited liability company, partnership, or limited liability partnership organized under state law.

The law specifies that a merger with these different entities is allowed only if the other entity is organized to render the same professional services (CGS § [33-182ff](#)).

Vetoed Act

The governor vetoed [PA 13-278](#), which would have expanded the list of entities that may be members of a medical foundation to include certain for-profit entities that are parties to a letter of intent, entered into on or before August 1, 2013, with (1) Greater Waterbury Health Network, Inc., (2) Bristol Hospital and Health Care Group, Inc., or (3) another hospital or health system. The act would have applied despite the existing medical foundations law, which as described above, restricts membership in medical foundations to (1) hospitals or health systems organized as nonstock (nonprofit) corporations and (2) medical schools meeting certain criteria.

The act would have applied to entities that have the following organizational form:

1. stock corporations organized under the business corporation law or any predecessor statute or
2. foreign stock or nonstock corporations, foreign limited partnerships, or foreign limited liability companies authorized to transact business or conduct affairs under the state business corporation law, nonstock corporation law, uniform limited partnership act, or limited liability company law, or any predecessor statutes.

CALIFORNIA MEDICAL FOUNDATIONS

California law generally prohibits the corporate practice of medicine—i.e., it generally prohibits hospitals or other corporations from directly employing physicians. Despite this prohibition, medical foundations are one way hospitals may form relationships with physicians similar to a direct employment relationship.

California law exempts from licensure a clinic operated by a nonprofit corporation (including a medical foundation) that:

1. conducts medical research and health education and
2. provides health care to its patients through a group of 40 or more physicians and surgeons who are independent contractors, representing at least 10 board-certified specialties, and at least 2/3 of whom practice full-time at the clinic (Cal. Health & Safety Code § 1206(l)).

According to a 2009 [article](#) from the California Health Care Almanac (a publication of the California HealthCare Foundation, a nonprofit grant making philanthropy organization), medical foundations in California are most prevalent in northern California and San Diego. The article notes various benefits to medical foundations, as reported by respondents to a market survey, such as helping recruit physicians in areas of limited supply. It also states that establishing such a foundation can be costly and may not be suitable for smaller and financially struggling hospitals.

A January 2012 [article](#) from the California Medical Association's (CMA) legal counsel discusses various aspects of medical foundations in the state, such as differences between more traditional foundations organized by physicians and newer models organized by hospitals. The article states that the passage of the Affordable Care Act led to increased demand for information regarding medical foundations and other organizational models. In response, the CMA Board of Trustees created an advisory committee to provide guidance to the board.

Based on an advisory committee report, the CMA House of Delegates adopted various principles for medical foundations. For example, the principles provide that a medical foundation should (1) maintain a page on its website describing how it complies with the statutory requirements and (2) not provide medical services outside its services area through a satellite unless it shows that the physicians who practice at the satellite are members of the medical group and have a strong nexus to the practice that provides services within the service area. The full list of principles, and more detail on them, is available in the article.

SOURCES AND ADDITIONAL INFORMATION

California Health Care Almanac, *A Tighter Bond: California Hospitals Seek Stronger Ties with Physicians* (2009), available at <http://www.chcf.org/~media/MEDIA%20LIBRARY%20Files/PDF/T/PDF%20TighterBondCAHospitalsSeekTiesWithDocs.pdf>.

Feldman, Joan W. et al, Shipman & Goodwin LLP, *Health Law Alert: Recent Law Establishes Medical Foundation Option for Hospitals and Health Systems* (August 2009), available at <http://www.shipmangoodwin.com/Recent-Law-Establishes-Medical-Foundation-Option-for-Hospitals-and-Health-Systems-08-14-2009>.

Feldman, Joan W., Shipman & Goodwin LLP, *Medical Foundations: One Model for Hospital-Physician Alignment*, Healthcare Financial Management Association (May 2012), available at [http://www.shipmangoodwin.com/files/15227_Medical%20Foundations_revised_05_HFM_May_Feldman%20\(2\).pdf](http://www.shipmangoodwin.com/files/15227_Medical%20Foundations_revised_05_HFM_May_Feldman%20(2).pdf).

Schiff, Anthony Hunter, Schiff and Bernstein, APC, *Medical Foundation: CMA Principles And Guidance*, 2012 California Physician's Legal Handbook, California Medical Association (January 2012), available at http://www.mdhealthlaw.com/documents/2012OnlineFinal.0254.Revs.Medical_Foundation_CMAPrinciples_and_Guidance.0111.2012.pdf.

Wilson, Linda. *Conn. Law Eases Systems' Path to Employing Docs*, *Modern Physician* (July 27, 2009).

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Attachment 1

MEDICAL FOUNDATIONS

Table of Contents

Tab #	Docket No.	Foundation Name	Date Received
1	09-01-MF	St. Vincent's Multispecialty Group, Inc. (Saint Vincent's Medical Center)	8-14-2009
2	09-02-MF	L&M Physician Association, Inc. (L&M Hospital)	10-29-2009
3	10-01-MF	Alliance Medical Group, Inc. (Waterbury Hospital)	4-23-2010
4	10-02-MF	Northeast Medical Group, Inc. (YNHH Syst./Bridgeport Hospital)	5-3-2010
5	10-03-MF	Saint Raphael Healthcare System Affiliated Physicians, Inc. (Hospital of Saint Raphael)	5-27-2010
6	11-01-MF	Bristol Hospital Multispecialty Group, Inc.	6-6-2011
7	11-02-MF	Community Medical Partners, Inc. (Backus Corporation/Backus Hospital)	10-4-2011
8	11-03-MF	Eastern Connecticut Medical Professionals Foundation, Inc. (ECHN)	11-22-2011
9	11-04-MF	Day Kimball Medical Group, Inc. (Day Kimball Healthcare, Inc.)	12-28-2011
10	12-01-MF	HHC PhysiciansCare, Inc. (Hartford HealthCare Corporation)	3-5-2012
11	12-02-MF	Connecticut Geriatric Specialty Group, Inc. (Hebrew Health Care, Inc.)	8-2-2012