



November 15, 2024

Susan Birch, MBA, BSN, RN  
Director and Chair  
Washington State Health Care Cost Transparency Board  
Washington State Health Care Authority  
Cherry Street Plaza  
626 8<sup>th</sup> Avenue SE  
Olympia, WA 98501

**RE: ATA Actions Concerns with Washington’s Cost Transparency Board’s Legislative Report**

Dear Ms. Birch:

On behalf of ATA Action and the over 400 organizations we represent, I am writing to express concern and seek further clarity over Washington State Health Care Authority’s Cost Transparency Board’s (“Cost Board”) recommendation for the Legislature to adopt the National Academy for State Health Policy’s “Model Act for State Oversight of Proposed Health Care Mergers.” While ATA Action approves of the Cost Board’s intent in addressing the rising costs of health care, adoption of the entire NASHP Policy- not simply the provisions in Part I and Part III on merger/ transaction oversight or ownership reporting - will result in unintended consequences affecting telehealth services in the state that likely increases the cost of healthcare for the most vulnerable.

ATA Action, the American Telemedicine Association’s affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

The Cost Board meeting on November 7, 2024 explored oversight and transparency mechanisms regarding proposed mergers and acquisitions, particularly to understand their impact on cost, access, equity and quality. The meeting included a presentation from National Academy of State Health Policy (NASHP) where they walked through three parts of their Comprehensive Consolidation Model Law (“NASHP Model”): Part I: Enhanced Oversight over Material Health Care Transactions, Part II: Strengthening the Ban on the Corporate Practice of Medicine and Part III: Part III: Creating Transparency in Ownership and Control of Health Care Entities. Following that meeting, the Cost Board approved two recommendations: (1) the Legislature use the “NASHP Model Act for State Oversight of Proposed Health Care Mergers” (i.e. Part I of the



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NASHP Model) to draft legislation to increase Washington State's oversight of mergers and acquisitions and (2) for the Data Advisory Committee to investigate and recommend best practices for such ownership and affiliation reporting (Part I and Part III of the NASHP Model). The Cost Board's recommendations **do not include** any reference to upending the Washington's framework for regulating the state's professional corporations and their relationship with lay entities (Part II of the NASHP Model).

ATA Action strongly urges the Cost Board to make this intent clearer in its report to the Legislature and specify that the Cost Board's recommendation pertain to Part I and Part III of the NASHP Model Consolidation Law. Without this needed clarification, the Legislature could include Part II of the NASHP Model, which proposes several sweeping mandates that were not a focus of the Cost Board's discussions, were not included in the Cost Board's meeting materials/research, and do not regulate consolidation, mergers, or acquisitions. If the Cost Board in fact intended its recommendation to include Part II (Corporate Practice of Medicine) of the NASHP Model, we respectfully request that the Cost Board allow stakeholder discussion on this precise topic and allow stakeholders the opportunity to discuss the significant unintended consequences that would result if the proposals were implemented.

In short, if Part II of NASHP's Model was adopted, ATA Action believes it would upend and prohibit how currently compliant telehealth provider entities in Washington contract with lay entities for business operations, non-physician expertise, and investment in the healthcare space. ATA Action is not aware of any state with a corporate practice of medicine framework—including "strict" corporate practice states like New York, California, or Texas—that include the sorts of sweeping mandates proposed in Part II. Further, while many states have recently adopted Part I of the NASHP Model for policies for oversight of mergers and transactions, none have adopted the corporate structure recommendations from Part II. (*See Cost Board Materials, Slide 60*). There is good reason for this: the language and untested concepts proposed would in practice seem to prohibit or severely limit the ability for medical practices to contract with management and administrative services providers or attract investment.

In closing, we urge you to clarify your recommendations in your December 1, 2024 report to the Legislature to focus on oversight of mergers and transactions, as well as ownership and affiliation reporting. ATA Action thanks you for your time and interest in telehealth. If you have any questions or would like to discuss further the telehealth industry's perspective, please contact me at [kzebley@ataaction.org](mailto:kzebley@ataaction.org).

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley".

Kyle Zebley  
Executive Director  
ATA Action