

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A21-1116**

Allstate Indemnity Company, et al.,  
Appellants,

vs.

Twin Cities Diagnostic Center, L.L.C., et al.,  
Respondents.

**Filed May 23, 2022  
Reversed and remanded  
Connolly, Judge**

Hennepin County District Court  
File No. 27-CV-18-18730

Richard S. Stempel, Kevin C. Beach, Stempel & Associates, PLC, Excelsior, Minnesota  
(for appellants)

Bryan R. Battina, Anna M. Koch, Trepanier Macgillis Battina P.A., Minneapolis,  
Minnesota (for respondents)

Considered and decided by Connolly, Presiding Judge; Reilly, Judge; and Tracy  
Smith, Judge.

**SYLLABUS**

Because the medical director of an accredited magnetic resonance imaging (MRI) facility, who is responsible for clinical MRI services and for selecting, approving, and supervising the work of medical staff members, is engaged in the “practice of healing,” the facility is subject to the Corporate Practice of Medicine Doctrine (CPMD), and lay ownership of such a facility is prohibited.

## **OPINION**

**CONNOLLY**, Judge

Appellants-insurers refused to pay respondents, the entity and its lay owners, that took MRI scans of appellants' insureds for the MRI scans. In this declaratory-judgment action, the parties filed cross-motions for summary judgment; appellants argued that respondents' lay ownership of the entity violated the CPMD; respondents argued that the CPMD did not apply and, even if it did, any violation was not knowing and intentional. The district court denied appellants' motion, granted respondents' motion, and awarded judgment for respondents against appellants. Because we conclude as a matter of law that the CPMD applies to respondents, we reverse the grant of summary judgment; because further discovery is needed as to whether respondents knowingly and intentionally violated the CPMD, we remand the matter to the district court.

## **FACTS**

In 2013, three Florida attorneys, respondents Carlos Fleites, Katiana Fleites, and Peter DePrimo (the individual respondents) incorporated to form respondent Twin Cities Diagnostic Corporation (TCDC), an entity in the business of taking MRI scans. Because Minn. Stat. § 144.1225, subd. 2 (2012), required TCDC to be accredited to be compensated for the scans, it obtained accreditation from the Intersocietal Accreditation Commission (IAC).

IAC accreditation required TCDC to have a medical director who was a licensed physician and who was responsible for "all clinical MRI services" and for "selecting and

approving medical staff members and supervising their work.” It is undisputed that TCDC met these requirements at all relevant times.

Appellants Allstate Indemnity Company and Allstate Insurance Company (collectively, appellants) insured several claimants who received diagnostic imaging services from TCDC. TCDC then billed appellants for the scans. Appellants sought a declaratory judgment that the bills were noncompensable, claiming that TCDC’s lay ownership structure was in violation of both the Minnesota CPMD and the accreditation standards set out in Minn. Stat. § 144.1225, subd. 2(a)(2) (2020). The district court granted respondents’ motion to dismiss both claims. Appellants challenged the dismissal. In *Allstate Indemnity Co. v. Twin Cities Diagnostic Ctr., LLC*, No. A20-0097 (Minn. App. July 27, 2020), this court affirmed the dismissal of the statutory claim and reversed and remanded the issue of whether respondents were subject to the CPMD for further discovery.

On remand, the district court concluded that because the medical directors of TCDC were “not employed to practice medicine or other healing arts, TCDC did not violate the CPMD,” that, even if TCDC did violate the CPMD, appellants were liable for the charges for the scans because “the undisputed evidence establishes that [respondents] did not knowingly or intentionally violate the CPMD,” and that TCDC is therefore entitled to recover from appellants. Appellants challenge these conclusions.

### **ISSUE**

Does the medical director of an accredited MRI facility engage in the practice of healing by fulfilling the responsibilities of that office?

## ANALYSIS

“We review the grant of summary judgment de novo to determine whether there are genuine issues of material fact and whether the district court erred in its application of the law.” *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017) (quotation omitted).

Minn. Stat. § 144.1225, subd. 2 (2020) provides that MRI facilities must be accredited and that IAC is an accreditor. IAC’s accreditation requirements state that an MRI facility medical director must be a licensed physician whose responsibilities include, but are not limited to:

- [1.] all clinical MRI services provided and for the determination of the quality of imaging provided related to the MRI services;
- [2.] supervising the entire operation of the facility or delegating specific operations to facility staff members;
- [3.] selecting and approving medical staff members and supervising their work; and
- [4.] assuring compliance of the medical and technical staff to the Standards outlined within this document.

The criteria for deciding whether a facility is subject to the CPMD are whether its employees (1) are engaged in the practice of healing, (2) are members of a state-licensed profession, (3) underwent significant training and education, and (4) enjoy independent professional judgment. *Isles Wellness, Inc. v. Progressive N. Ins. Co.*, 703 N.W.2d 513, 522 (Minn. 2005) (*Isles Wellness I*).

The term “practice of healing” is defined in Minn. Stat. § 146.01 (2020) to include

any person who shall in any manner for any fee, gift, compensation, or reward, or in expectation thereof, engage in, or hold out to the public as being engaged in, the practice of

medicine or surgery . . . or the diagnosis, analysis, treatment, correction or cure of any disease, injury, defect, deformity, infirmity, ailment, or affliction of human beings, . . . also any person . . . who attaches the title of doctor, physician, surgeon, specialist, M.D., . . . or any other word, abbreviation, or title to the person's name indicating, or designed to indicate, that the person is engaged in the practice of healing.

We conclude that medical directors of MRI facilities accredited by IAC, being licensed physicians, having the responsibilities set out by IAC, and using the title “doctor” and the designation “radiologist,” are engaged in the practice of healing.

We hold as a matter of law that the medical directors of MRI facilities are engaged in the practice of healing. As licensed physicians, they are members of a state-licensed profession who underwent significant training and education, and they enjoy independent professional judgment: therefore, they meet the four criteria for employees of facilities subject to the CPMD. Under the CPMD, “it is improper and contrary to statute and public policy for a corporation or layman to practice medicine indirectly by hiring a licensed doctor to practice medicine for the benefit or profit of the hirer.” *Isle Wellness I*, 703 N.W.2d at 519 (quotation omitted); *see also* Minn. Stat. § 319B.07, subd. 1(1) (2020) (restricting ownership interests in professional firms to “professionals who, with respect to at least one category of the pertinent professional services, are licensed and not disqualified”). We agree with appellants that “TCDC necessarily violated the CPMD by engaging a licensed physician to act as its medical director as required by statute and IAC accreditation.”

The district court adopted the view that MRI practice is bifurcated into a technical component, which is not subject to the CPMD, and a professional component, which is

subject to the CPMD. But the statute governing advanced diagnostic imaging services, Minn. Stat. § 144.1225 (2020), makes no such bifurcation in its analysis of the practice: it imposes requirements on “advanced diagnostic imaging services” and “all facilities that provide advanced diagnostic imaging services” without recognizing any distinction or bifurcation. We cannot read such a bifurcation into the statute. “[T]his court is prohibited from adding words to a statute and cannot supply what the legislature either purposely omitted or inadvertently overlooked.” *Isse v. Alamo Rent-A-Car*, 590 N.W.2d 137, 140 (Minn. App. 1999) (quotation omitted), *rev. denied* (Minn. Apr. 20, 1999).

By meeting the criteria for accreditation by having a medical director, TCDC became subject to and violated the CPMD. We conclude that the district court erred in granting summary judgment to respondents on the basis that TCDC did not violate the CPMD. We therefore reverse the summary judgment granted to respondents and address whether that violation was knowing and intentional. *See Isles Wellness, Inc. v. Progressive N. Ins. Co.*, 725 N.W.2d 90, 95 (Minn. 2006) (holding that a court will not take action on a violation unless “the corporation’s actions show a knowing and intentional failure to abide by state and local law”) (*Isles Wellness II*).

The district court concluded that the undisputed evidence established that respondents did not knowingly or intentionally violate the CPMD. The district court focused on the medical directors’ limited role in the daily operation of the facility and noted that “[t]here is no evidence . . . regarding the specific duties of TCDC’s medical director” and “no evidence” as to what this supervision of the technical director by the medical director and the individual respondents entailed. Throughout its operation from 2013 to

2019, TCDC had as a medical director a licensed radiologist who, according to the deposition testimony of the individual respondents, was not at TCDC on a daily or monthly basis, had no office at TCDC, performed no MRI scans at TCDC, and never saw patients at TCDC. The respondents testified that there were two or three medical directors, to whom they did not recall paying anything except travel expenses.

But the issue is not the medical directors' specific responsibilities: it is whether TCDC's lay owners knowingly and intentionally failed to abide by the CPMD. The individual respondents claim to have done research prior to incorporating and obtaining accreditation. It is possible that they would have known that the responsibilities of a medical director included selecting and approving medical staff members, supervising their work, and assuring their compliance with IAC standards. We conclude that whether the individual respondents committed "a knowing and intentional failure to abide by state and local law," *id.*, requires further development of the record and may require further discovery.

We therefore reverse the grant of summary judgment to respondents and remand to the district court to determine whether there is a genuine issue of material fact as to whether respondents' violation of the CPMD was knowing and intentional and, because appellants' obligation to pay for the scans is contingent on the absence of respondents' knowing and intentional violation, we reverse and remand the judgment awarded to them. On remand, the district court shall further develop the record on the issue of whether the violation was

intentional and, if the district court believes that it is necessary for that determination, it may order additional discovery on that issue.

**Reversed and remanded.**