

Connecticut Legislature Amends Physician Non-Compete Statute, Adds Protections for APRNs, PAs

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A bill to amend the state physician non-compete statute (Conn. Gen. Stat. § 20-14p) and to add non-compete protections for advanced practice registered nurses (APRNs) and physician assistants (PAs) has passed the Connecticut legislature. Governor Ned Lamont is expected to sign the bill soon. For physicians, the new law will go into effect July 1, 2023. For APRNs and PAs, the new law will go into effect October 1, 2023.

The version of “An Act Concerning Health and Wellness for Connecticut Residents” [S.B. 9](#) that passed includes amendments that significantly narrow the statute’s effects on physician non-competes. Its modifications will prospectively restrict the circumstances in which physician non-compete agreements will be enforceable under Connecticut law, while installing new non-compete protections for APRNs and PAs that are similar in scope. (Earlier versions of the bill would have prospectively banned physician non-compete agreements entirely in the State of Connecticut, as well as non-competes applying to APRNs and PAs.)

Amendments to Physician Non-Compete Statute

Since 2016, physician non-competes entered into, amended, extended, or renewed on or after July 1, 2016, must be separately and individually signed and may last no longer than one year or extend beyond a 15-mile radius from their primary site of practice. In addition, physician non-competes would be enforceable only if they are:

- Necessary to protect a legitimate business interest;
- Reasonably limited in time, geographic scope, and practice restrictions as necessary to protect such business interest; and
- Otherwise consistent with the law and public policy.

The 2016 statute also barred enforcement of non-competes with physicians if:

- The agreement (provided, it was not made in anticipation of, or as part of, a partnership or ownership agreement) expires and is not renewed, unless the employer made a bona fide offer to extend the agreement on the same or similar terms and conditions; or
- The employment or contractual relationship is terminated by the employer, unless such employment or contractual relationship is terminated for cause.

Under S.B. 9, these conditions will continue to apply to all physician non-competes entered into, amended, extended, or renewed on or after July 1, 2016.

S.B. 9 provides that physician non-competes entered into, amended, extended, or renewed on or after October 1, 2023, will also not be enforceable if:

- The physician does not agree to a proposed material change to the compensation terms of their agreement prior to or at the time of the extension or renewal of such

agreement; and

- The contract or agreement expires and is not renewed or the contractual relationship is terminated by the employer, unless such employment or contractual relationship is terminated by the employer for cause.

These additions will not apply to group practices of fewer than 35 physicians, provided that the majority of ownership of such a group practice is comprised of physicians.

The bill also revises the definition of “primary site of practice” to “any single office, facility or location where [the] physician practices” which is mutually defined by the employer and physician in the relevant agreement. (Previously, the definition provided for a “default” that was the office, facility, or location where a majority of the revenue derived from such physician’s services was generated.) The bill requires the parties to define the primary site of practice as part of their agreement.

New Non-Compete Restrictions for APRNs, PAs

For APRNs and PAs, S.B. 9 applies to non-compete agreements entered into, amended, extended, or renewed on or after October 1, 2023, and applies the same general limitations and standards applicable to physician non-compete agreements. These include the limitations that such non-competes may last no longer than one year after separation and extend beyond a 15-mile radius from the APRN or PA’s primary site of practice.

Additionally, the same baseline requirements regarding protection of legitimate business interests, reasonable limitations in time, geographic scope, and practice restrictions and consistency with public policy discussed above for physicians will apply to non-competes with APRNs and PAs.

The bill also applies the same new limitations on enforceability at the time of a renewal or termination to APRNs and PAs as it does for physicians, except that they do not include the same exception for smaller group practices that was added to the physician non-compete statute.

Takeaways for Healthcare Employers

With respect to length of time, geography, and scope, the same core, baseline requirements continue to apply for enforceable non-compete agreements with physicians under Connecticut law. However, healthcare employers should be affirmatively defining a single primary site of practice in their agreements with physicians, APRNs, or PAs from which any geographic radius will originate, if they have not done so previously.

Additionally, agreements with such employees that are entered into, amended, renewed, extended, or that “evergreen” after October 1, 2023, will clearly not be enforceable if they are non-renewed or are terminated by the employer without cause and where there is a proposed material change to compensation to which the physician, APRN, or PA employee does not agree.

Please contact a Jackson Lewis attorney with any questions.

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