



General Assembly

February Session, 2016

Raised Bill No. 351

LCO No. 2494



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

AN ACT CONCERNING MATTERS AFFECTING PHYSICIANS AND HOSPITALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For purposes of this
2 section: (1) "Covenant not to compete" means any contract or
3 agreement that restricts the right of a physician to practice medicine in
4 any geographic area of the state for any period of time following
5 termination of the physician's employment or any other contract for
6 professional services; (2) "affiliate" means a person, entity or
7 organization controlling, controlled by, or under common control with
8 another person, entity or organization; and (3) "captive professional
9 entity" has the same meaning as provided in section 19a-486i of the
10 general statutes, as amended by this act.

11 (b) Any covenant not to compete in an employment agreement or
12 other contract for professional services that is entered into, amended or
13 renewed on or after January 1, 2017, with a physician licensed under
14 chapter 370 of the general statutes is against public policy and shall be
15 void and unenforceable, except: (1) A covenant not to compete in an

16 employment agreement or other contract for professional services that
17 is entered into between a physician and a hospital, health system, as
18 defined in section 19a-508c of the general statutes, medical school or
19 medical foundation, organized under chapter 594b of the general
20 statutes, is reasonable and enforceable if it restricts the physician's
21 competitive activities only (A) for a period of not more than two years,
22 (B) in a geographic region of not more than fifteen miles from the
23 primary site where such physician practices under the terms of such
24 agreement or contract, and (C) to practice medicine with another
25 hospital, a health system, as defined in section 19a-508c of the general
26 statutes, a medical school or a medical foundation, organized under
27 chapter 594b of the general statutes; and (2) a covenant not to compete
28 in an employment agreement or other contract for professional
29 services that is entered into between a physician and a professional
30 partnership, professional corporation or limited liability company that
31 is not a captive professional entity and is formed to render professional
32 medical services and in which each partner, shareholder or member is
33 a physician licensed under chapter 370 of the general statutes, is
34 reasonable and enforceable if it restricts the physician's competitive
35 activities only (A) for a period of not more than two years, and (B) in a
36 geographic region of not more than fifteen miles from the primary site
37 where such physician practices under the terms of such agreement or
38 contract.

39 (c) The remaining provisions of any employment agreement or
40 other contract for professional services that contains a covenant not to
41 compete that is rendered void and unenforceable under the provisions
42 of this section shall remain in full force and effect.

43 Sec. 2. Subdivision (2) of subsection (a) of section 19a-486i of the
44 2016 supplement to the general statutes is repealed and the following
45 is substituted in lieu thereof (*Effective October 1, 2016*):

46 (2) "Captive professional entity" means a partnership, professional
47 corporation, limited liability company or other entity formed to render

48 professional services in which a partner, a member, a shareholder or a
49 beneficial owner is a physician employed by, controlled by or
50 otherwise designated by (A) a hospital, [or] (B) a hospital system, (C)
51 an insurance company, (D) any other corporate entity, or (E) any entity
52 affiliated, as defined in section 1 of this act, with an entity described in
53 subparagraphs (A) to (C), inclusive, of this subdivision;

54 Sec. 3. Subsection (a) of section 19a-638 of the 2016 supplement to
55 the general statutes is repealed and the following is substituted in lieu
56 thereof (*Effective October 1, 2016*):

57 (a) A certificate of need issued by the office shall be required for:

58 (1) The establishment of a new health care facility;

59 (2) A transfer of ownership of a health care facility;

60 (3) A transfer of ownership of a large group practice to any entity,
61 [other than a (A) physician, or (B) group of two or more physicians,
62 legally organized in a partnership, professional corporation or limited
63 liability company formed to render professional services and not
64 employed by or an affiliate of any hospital, medical foundation,
65 insurance company or other similar entity] except a transfer of
66 ownership to a group practice, as defined in section 19a-486i, as
67 amended by this act, provided such group practice is not a captive
68 professional entity, as defined in section 19a-486i, as amended by this
69 act;

70 (4) The establishment of a freestanding emergency department;

71 (5) The termination of inpatient or outpatient services offered by a
72 hospital, including, but not limited to, the termination by a short-term
73 acute care general hospital or children's hospital of inpatient and
74 outpatient mental health and substance abuse services;

75 (6) The establishment of an outpatient surgical facility, as defined in
76 section 19a-493b, or as established by a short-term acute care general

77 hospital;

78 (7) The termination of surgical services by an outpatient surgical
79 facility, as defined in section 19a-493b, or a facility that provides
80 outpatient surgical services as part of the outpatient surgery
81 department of a short-term acute care general hospital, provided
82 termination of outpatient surgical services due to (A) insufficient
83 patient volume, or (B) the termination of any subspecialty surgical
84 service, shall not require certificate of need approval;

85 (8) The termination of an emergency department by a short-term
86 acute care general hospital;

87 (9) The establishment of cardiac services, including inpatient and
88 outpatient cardiac catheterization, interventional cardiology and
89 cardiovascular surgery;

90 (10) The acquisition of computed tomography scanners, magnetic
91 resonance imaging scanners, positron emission tomography scanners
92 or positron emission tomography-computed tomography scanners, by
93 any person, physician, provider, short-term acute care general hospital
94 or children's hospital, except (A) as provided for in subdivision (22) of
95 subsection (b) of this section, and (B) a certificate of need issued by the
96 office shall not be required where such scanner is a replacement for a
97 scanner that was previously acquired through certificate of need
98 approval or a certificate of need determination;

99 (11) The acquisition of nonhospital based linear accelerators;

100 (12) An increase in the licensed bed capacity of a health care facility;

101 (13) The acquisition of equipment utilizing technology that has not
102 previously been utilized in the state;

103 (14) An increase of two or more operating rooms within any three-
104 year period, commencing on and after October 1, 2010, by an
105 outpatient surgical facility, as defined in section 19a-493b, or by a

106 short-term acute care general hospital; and

107 (15) The termination of inpatient or outpatient services offered by a
108 hospital or other facility or institution operated by the state that
109 provides services that are eligible for reimbursement under Title XVIII
110 or XIX of the federal Social Security Act, 42 USC 301, as amended.

111 Sec. 4. Section 20-9 of the general statutes is repealed and the
112 following is substituted in lieu thereof (*Effective October 1, 2016*):

113 (a) No person shall, for compensation, gain or reward, received or
114 expected, diagnose, treat, operate for or prescribe for any injury,
115 deformity, ailment or disease, actual or imaginary, of another person,
116 nor practice surgery, until he or she has obtained such a license as
117 provided in section 20-10, and then only in the kind or branch of
118 practice stated in such license.

119 (b) The provisions of this chapter shall not apply to:

120 (1) Dentists while practicing dentistry only;

121 (2) Any person in the employ of the United States government while
122 acting in the scope of his employment;

123 (3) Any person who furnishes medical or surgical assistance in cases
124 of sudden emergency;

125 (4) Any person residing out of this state who is employed to come
126 into this state to render temporary assistance to or consult with any
127 physician or surgeon who has been licensed in conformity with the
128 provisions of this chapter;

129 (5) Any physician or surgeon residing out of this state who holds a
130 current license in good standing in another state and who is employed
131 to come into this state to treat, operate or prescribe for any injury,
132 deformity, ailment or disease from which the person who employed
133 such physician, or the person on behalf of whom such physician is

134 employed, is suffering at the time when such nonresident physician or
135 surgeon is so employed, provided such physician or surgeon may
136 practice in this state without a Connecticut license for a period not to
137 exceed thirty consecutive days;

138 (6) Any person rendering service as (A) an advanced practice
139 registered nurse if such service is rendered in accordance with section
140 20-87a, or (B) an advanced practice registered nurse maintaining
141 classification from the American Association of Nurse Anesthetists if
142 such service is under the direction of a licensed physician;

143 (7) Any nurse-midwife practicing nurse-midwifery in accordance
144 with the provisions of chapter 377;

145 (8) Any podiatrist licensed in accordance with the provisions of
146 chapter 375;

147 (9) Any Christian Science practitioner who does not use or prescribe
148 in his practice any drugs, poisons, medicines, chemicals, nostrums or
149 surgery;

150 (10) Any person licensed to practice any of the healing arts named
151 in section 20-1, who does not use or prescribe in his practice any drugs,
152 medicines, poisons, chemicals, nostrums or surgery;

153 (11) Any graduate of any school or institution giving instruction in
154 the healing arts who has been issued a permit in accordance with
155 subsection (a) of section 20-11a and who is serving as an intern,
156 resident or medical officer candidate in a hospital;

157 (12) Any student participating in a clinical clerkship program who
158 has the qualifications specified in subsection (b) of section 20-11a;

159 (13) Any person, otherwise qualified to practice medicine in this
160 state except that he is a graduate of a medical school located outside of
161 the United States or the Dominion of Canada which school is
162 recognized by the American Medical Association or the World Health

163 Organization, to whom the Connecticut Medical Examining Board,
164 subject to such regulations as the Commissioner of Public Health, with
165 advice and assistance from the board, prescribes, has issued a permit
166 to serve as an intern or resident in a hospital in this state for the
167 purpose of extending his or her education;

168 (14) Any person rendering service as a physician assistant licensed
169 pursuant to section 20-12b, a registered nurse, a licensed practical
170 nurse or a paramedic, as defined in subdivision (15) of section 19a-175,
171 acting within the scope of regulations adopted pursuant to section 19a-
172 179, if such service is rendered under the supervision, control and
173 responsibility of a licensed physician;

174 (15) Any student enrolled in an accredited physician assistant
175 program or paramedic program approved in accordance with
176 regulations adopted pursuant to section 19a-179, who is performing
177 such work as is incidental to his course of study;

178 (16) Any person who, on June 1, 1993, has worked continuously in
179 this state since 1979 performing diagnostic radiology services and who,
180 as of October 31, 1997, continued to render such services under the
181 supervision, control and responsibility of a licensed physician solely
182 within the setting where such person was employed on June 1, 1993;

183 (17) Any person practicing athletic training, as defined in section 20-
184 65f;

185 (18) When deemed by the Connecticut Medical Examining Board to
186 be in the public's interest, based on such considerations as academic
187 attainments, specialty board certification and years of experience, to a
188 foreign physician or surgeon whose professional activities shall be
189 confined within the confines of a recognized medical school;

190 (19) Any technician engaging in tattooing in accordance with the
191 provisions of section 20-266o or 20-266p and any regulations adopted
192 thereunder;

193 (20) Any person practicing perfusion, as defined in section 20-162aa;

194 (21) Any foreign physician or surgeon (A) participating in
195 supervised clinical training under the direct supervision and control of
196 a physician or surgeon licensed in accordance with the provisions of
197 this chapter, and (B) whose professional activities are confined to a
198 licensed hospital that has a residency program accredited by the
199 Accreditation Council for Graduate Medical Education or that is a
200 primary affiliated teaching hospital of a medical school accredited by
201 the Liaison Committee on Medical Education. Such hospital shall
202 verify that the foreign physician or surgeon holds a current valid
203 license in another country; or

204 (22) Any person practicing as a nuclear medicine technologist, as
205 defined in section 20-74uu, while performing under the supervision
206 and direction of a physician licensed in accordance with the provisions
207 of this chapter.

208 (c) This section shall not authorize anyone to practice optometry, as
209 defined in chapter 380, or to practice dentistry, as defined in chapter
210 379, or dental hygiene, as defined in chapter 379a.

211 (d) The provisions of subsection (a) of this section shall apply to any
212 individual whose practice of medicine includes any ongoing, regular
213 or contractual arrangement whereby, regardless of residency in this or
214 any other state, he or she provides, through electronic communications
215 or interstate commerce, diagnostic or treatment services, including
216 primary diagnosis of pathology specimens, slides or images, to any
217 person located in this state. In the case of electronic transmissions of
218 radiographic images, licensure shall be required for an out-of-state
219 physician who provides, through an ongoing, regular or contractual
220 arrangement, official written reports of diagnostic evaluations of such
221 images to physicians or patients in this state. The provisions of
222 subsection (a) of this section shall not apply to a nonresident physician
223 who, while located outside this state, consults (A) on an irregular basis

224 with a physician licensed by section 20-10 who is located in this state
225 or (B) with a medical school within this state for educational or
226 medical training purposes. Notwithstanding the provisions of this
227 subsection, the provisions of subsection (a) of this section shall not
228 apply to any individual who regularly provides the types of services
229 described in this subsection pursuant to any agreement or
230 arrangement with a short-term acute care general hospital, licensed by
231 the Department of Public Health, provided such agreement or
232 arrangement was entered into prior to February 1, 1996, and is in effect
233 as of October 1, 1996.

234 (e) On and after October 1, 1999, any person licensed as an
235 osteopathic physician or osteopath pursuant to chapter 371 shall be
236 deemed licensed as a physician and surgeon pursuant to this chapter.

237 (f) No corporation shall practice medicine. A corporation is not
238 engaged in the practice of medicine in violation of this subsection if the
239 corporation employs or enters into an agreement with one or more
240 licensed physicians who provide medical services on behalf of the
241 corporation or other entity, provided the relationship between the
242 corporation and the physician does not, directly or indirectly (1)
243 supplant, diminish, regulate or improperly influence the physician's
244 independent judgment concerning the physician's practice of
245 medicine, including, but not limited to, the physician's diagnosis or
246 treatment of any patient, or (2) interfere with the physician-patient
247 relationship. Any agreement that violates the provisions of this
248 subsection shall be null and void.

249 Sec. 5. (NEW) (*Effective October 1, 2016*) Any corporation that
250 employs or contracts, directly or indirectly, through one or more
251 affiliated entities, including, but not limited to, any captive
252 professional entity, as defined in section 19a-486i of the general
253 statutes, as amended by this act, for the services of one or more
254 physicians shall submit a report on or before January 1, 2017, and
255 annually thereafter, to the Office of Health Care Access division of the

256 Department of Public Health and the Attorney General. Such report
257 shall include: (1) The name and address of the corporation or other
258 entity that employs or contracts for the services of the physicians; (2)
259 the name and specialty of each physician; (3) the location or locations
260 where each physician practices; (4) a description of the services
261 provided at each such location; (5) a copy of the corporation's or other
262 entity's governing documents and bylaws; and (6) a copy of any
263 statement of policy intended to ensure compliance with the provisions
264 of subsection (f) of section 20-9 of the general statutes, as amended by
265 this act.

266 Sec. 6. Section 19a-508d of the 2016 supplement to the general
267 statutes is repealed and the following is substituted in lieu thereof
268 (*Effective October 1, 2016*):

269 Each health care provider that refers a patient to another health care
270 provider who is not a member of the same partnership, professional
271 corporation or limited liability company formed to render professional
272 services but is affiliated with the referring health care provider shall
273 notify the patient, in writing, that the health care providers are
274 affiliated. Such notice shall also [(1)] inform the patient that the patient
275 (1) is not required to see the provider to whom he or she is referred
276 and that the patient has a right to seek care from the health care
277 provider chosen by the patient, and (2) [provide the patient with the
278 Internet web site and toll-free telephone number of the] may contact
279 the patient's health carrier to obtain information regarding other in-
280 network health care providers and estimated out-of-pocket costs for
281 the referred service. A health care provider is not required to provide
282 notice to a patient pursuant to this section if the health care provider
283 otherwise provides substantially similar notice to patients pursuant to
284 federal law. For purposes of this section, "affiliated" means a
285 relationship between two or more health care providers that permits
286 the health care providers to negotiate jointly or as a member of the
287 same group of health care providers with third parties over rates for
288 professional medical services.

289 Sec. 7. (*Effective from passage*) The Commissioner of Public Health
290 shall study the licensure of limited service health clinics. Not later than
291 December 1, 2016, the commissioner shall report, in accordance with
292 the provisions of section 11-4a of the general statutes, to the joint
293 standing committee of the General Assembly having cognizance of
294 matters relating to public health concerning the results of such study.
295 Such report shall include, but need not be limited to, recommendations
296 for legislation to establish a licensure category for limited service
297 health clinics.

298 Sec. 8. Section 19a-509 of the general statutes is repealed and the
299 following is substituted in lieu thereof (*Effective October 1, 2016*):

300 (a) All hospitals and all nursing homes shall include on their
301 admission forms a question as to whether a person is a veteran or the
302 spouse of a veteran. All hospitals shall include on their admission
303 forms a conspicuous notice that a self-pay patient may, upon request,
304 receive a copy of the hospital charges related to such patient. Such
305 admission forms shall also include a conspicuous notice specifying the
306 name and contact information of a person whom the patient may
307 contact to request a copy of the hospital charges related to the patient.

308 (b) All hospitals shall include in their bills to patients, and to third
309 party payors unless previously furnished, (1) an explanation of any
310 items identified by any code or by initials, and (2) the cost-to-charge
311 ratio for each item billed. Upon request by a self-pay patient, a hospital
312 shall provide such patient with an itemized bill not later than thirty
313 days after the date of such request. Such itemized bill shall identify, in
314 plain language pursuant to chapter 742, each individual service,
315 supply or medication provided to the patient by the hospital and the
316 specific charge for such service, supply or medication.

317 (c) No nursing home may bill a patient or third party payor an
318 amount for telephone service, community antenna television service or
319 other telecommunications service, which amount includes a surcharge

320 or administrative fee or which otherwise exceeds the amount paid by
321 the nursing home to provide such service.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2016</i>	19a-486i(a)(2)
Sec. 3	<i>October 1, 2016</i>	19a-638(a)
Sec. 4	<i>October 1, 2016</i>	20-9
Sec. 5	<i>October 1, 2016</i>	New section
Sec. 6	<i>October 1, 2016</i>	19a-508d
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>October 1, 2016</i>	19a-509

Statement of Purpose:

To make various changes and additions to the public health statutes on matters affecting physicians and hospitals.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]