



Substitute Senate Bill No. 351

Public Act No. 16-95

**AN ACT CONCERNING MATTERS AFFECTING PHYSICIANS,
HEALTH CARE FACILITIES AND MEDICAL FOUNDATIONS.**

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

Section 1. (NEW) (*Effective July 1, 2016*) (a) For purposes of this section: (1) "Covenant not to compete" means any provision of an employment or other contract or agreement that creates or establishes a professional relationship with a physician and restricts the right of a physician to practice medicine in any geographic area of the state for any period of time after the termination or cessation of such partnership, employment or other professional relationship; (2) "physician" means an individual licensed to practice medicine under chapter 370 of the general statutes; and (3) "primary site where such physician practices" means (A) the office, facility or location where a majority of the revenue derived from such physician's services is generated, or (B) any other office, facility or location where such physician practices and mutually agreed to by the parties and identified in the covenant not to compete.

(b) (1) A covenant not to compete is valid and enforceable only if it is: (A) Necessary to protect a legitimate business interest; (B) reasonably limited in time, geographic scope and practice restrictions as necessary to protect such business interest; and (C) otherwise

Substitute Senate Bill No. 351

consistent with the law and public policy. The party seeking to enforce a covenant not to compete shall have the burden of proof in any proceeding.

(2) A covenant not to compete that is entered into, amended, extended or renewed on or after July 1, 2016, shall not: (A) Restrict the physician's competitive activities (i) for a period of more than one year, and (ii) in a geographic region of more than fifteen miles from the primary site where such physician practices; or (B) be enforceable against a physician if (i) such employment contract or agreement was not made in anticipation of, or as part of, a partnership or ownership agreement and such contract or agreement expires and is not renewed, unless, prior to such expiration, the employer makes a bona fide offer to renew the contract on the same or similar terms and conditions, or (ii) the employment or contractual relationship is terminated by the employer, unless such employment or contractual relationship is terminated for cause.

(3) Each covenant not to compete entered into, amended or renewed on and after July 1, 2016, shall be separately and individually signed by the physician.

(c) The remaining provisions of any contract or agreement that includes a covenant not to compete that is rendered void and unenforceable, in whole or in part, under the provisions of this section shall remain in full force and effect, including provisions that require the payment of damages resulting from any injury suffered by reason of termination of such contract or agreement.

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

(a) As used in this section:

Substitute Senate Bill No. 351

(1) "Affiliation" means the formation of a relationship between two or more entities that permits the entities to negotiate jointly with third parties over rates for professional medical services;

(2) "Captive professional entity" means a partnership, professional corporation, limited liability company or other entity formed to render professional services in which a partner, a member, a shareholder or a beneficial owner is a physician, directly or indirectly, employed by, controlled by, subject to the direction of, or otherwise designated by (A) a hospital, [or] (B) a hospital system, (C) a medical school, (D) a medical foundation, organized pursuant to subsection (a) of section 33-182bb, as amended by this act, or (E) any entity that controls, is controlled by or is under common control with, whether through ownership, governance, contract or otherwise, another person, entity or organization described in subparagraphs (A) to (D), inclusive, of this subdivision;

(3) "Hospital" has the same meaning as provided in section 19a-490;

(4) "Hospital system" means: (A) A parent corporation of one or more hospitals and any entity affiliated with such parent corporation through ownership, governance or membership, or (B) a hospital and any entity affiliated with such hospital through ownership, governance or membership;

(5) "Health care provider" has the same meaning as provided in section 19a-17b;

(6) "Medical foundation" means a medical foundation formed under chapter 594b;

(7) "Physician" has the same meaning as provided in section 20-13a;

(8) "Person" has the same meaning as provided in section 35-25;

Substitute Senate Bill No. 351

(9) "Professional corporation" has the same meaning as provided in section 33-182a;

(10) "Group practice" means two or more physicians, legally organized in a partnership, professional corporation, limited liability company formed to render professional services, medical foundation, not-for-profit corporation, faculty practice plan or other similar entity (A) in which each physician who is a member of the group provides substantially the full range of services that the physician routinely provides, including, but not limited to, medical care, consultation, diagnosis or treatment, through the joint use of shared office space, facilities, equipment or personnel; (B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group practice and amounts so received are treated as receipts of the group; or (C) in which the overhead expenses of, and the income from, the group are distributed in accordance with methods previously determined by members of the group. An entity that otherwise meets the definition of group practice under this section shall be considered a group practice although its shareholders, partners or owners of the group practice include single-physician professional corporations, limited liability companies formed to render professional services or other entities in which beneficial owners are individual physicians; and

(11) "Primary service area" means the smallest number of zip codes from which the group practice draws at least seventy-five per cent of its patients.

Sec. 3. Section 19a-508d of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

Each health care provider that refers a patient to another health care provider who is not a member of the same partnership, professional

Substitute Senate Bill No. 351

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

Sec. 4. (*Effective from passage*) The Health Care Cabinet, established pursuant to section 19a-725 of the general statutes, may study the licensure of urgent care and limited service health clinics. At the conclusion of any such study, the cabinet may submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to public health concerning the results of such study. Such report, if a report is submitted, shall include, but need not be limited to, recommendations for legislation to establish licensure categories for urgent care and limited service health clinics.

Sec. 5. Section 19a-509 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) All hospitals and all nursing homes shall include on their

Substitute Senate Bill No. 351

admission forms a question as to whether a person is a veteran or the spouse of a veteran. All hospitals shall include on their admission forms a conspicuous notice that a self-pay patient may, upon request, receive a copy of the hospital charges related to such patient. Such admission forms shall also include a conspicuous notice specifying the name and contact information of a person whom the patient may contact to request a copy of the hospital charges related to the patient.

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

(c) No nursing home may bill a patient or third party payor an amount for telephone service, community antenna television service or other telecommunications service, which amount includes a surcharge or administrative fee or which otherwise exceeds the amount paid by the nursing home to provide such service.

Sec. 6. Section 33-182aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

As used in this chapter:

(1) "Affiliate" means any person that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with another person. A person is deemed controlled by another person if the other person, or one of that other person's affiliates, officers, agents or management employees, acts as a general

Substitute Senate Bill No. 351

partner or manager of the person in question;

(2) "Certificate of incorporation" means a certificate of incorporation, as defined in section 33-1002, or any predecessor statute thereto;

(3) "Hospital" means a hospital licensed pursuant to chapter 368v;

(4) "Health system" means a business entity consisting of a parent corporation of one or more hospitals licensed pursuant to chapter 368v, and affiliated through governance, membership or some other means;

(5) "Medical school" means a school of allopathic medicine leading to the M.D. degree, accredited by the Liaison Committee on Medical Education, and affiliated through governance with or part of a university that is either incorporated in this state or established pursuant to any provision of the general statutes and accredited by the New England Association of Schools and Colleges Commission on Institutions of Higher Education; [and]

(6) "Provider" means a physician licensed under chapter 370, a chiropractor licensed under chapter 372, an optometrist licensed under chapter 380 or a podiatrist licensed under chapter 375; [.] and

(7) "Independent practice association" means an organization (A) (i) having owners or members that consist entirely of independent providers, or (ii) that is owned by a tax exempt state-wide professional medical membership association and controlled by independent providers, and (B) that provide services to and on behalf of its members or owners. Such services may include practice management and administrative services such as accounting, payroll, billing, human resource and information technology services. Only a person who is authorized to practice medicine pursuant to section 20-9 may be an owner or member of, or otherwise own or control, directly or indirectly, an independent practice association.

Substitute Senate Bill No. 351

Sec. 7. Section 33-182bb of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) [(1)] Any hospital, health system or medical school may organize and become a member of a nonprofit medical foundation under the provisions of chapter 602 for the purpose of practicing medicine and providing health care services as a medical foundation through employees or agents of such medical foundation who are providers. [Such]

(b) Any (1) independent practice association, or (2) other business entity that (A) is registered to do business in this state pursuant to title 33 or 34, (B) has a principal place of business in the state, and (C) has sixty per cent or more of the entity's ownership and control held individually or jointly by (i) an independent practice association, (ii) a provider, or (iii) a professional partnership, professional corporation or limited liability company that is not a captive professional entity, as defined in section 19a-486i, as amended by this act, and that is formed to render professional medical services, and each partner, shareholder or member of such professional partnership, professional corporation or limited liability company is a physician licensed under chapter 370, may organize and become a member of a medical foundation for the purpose of practicing medicine and providing health care services as a medical foundation through employees or agents of such medical foundation who are providers. The ownership or control of any independent practice association or other business entity organizing a medical foundation pursuant to this subdivision may not include any hospital, health system, medical school or medical foundation organized pursuant to subsection (a) of this section.

(c) A medical foundation shall be governed by a board of directors, which shall consist of an equal or greater number of providers than nonprovider employees of the members, in addition to such other directors as may be elected by the members. The authority to appoint

Substitute Senate Bill No. 351

or elect board members shall not be granted to any person or entity that is not a member of the medical foundation.

[(2)] (d) Notwithstanding the provisions of this subsection, [(A)] (1) no employee or representative of a for-profit hospital, for-profit health system, for-profit medical school or any entity that owns or controls a for-profit hospital, for-profit health system or for-profit medical school may serve on the board of directors of a medical foundation organized by a nonprofit hospital, nonprofit health system or nonprofit medical school or a medical foundation organized pursuant to subsection (b) of this section; [(B)] (2) no employee or representative of a nonprofit hospital, nonprofit health system, nonprofit medical school or any entity that owns or controls a nonprofit hospital, nonprofit health system or nonprofit medical school may serve on the board of directors of a medical foundation organized by a for-profit hospital, for-profit health system or for-profit medical school or a medical foundation organized pursuant to subsection (b) of this section; and [(C)] (3) no person shall serve on the board of directors of [a] more than one medical foundation. [organized by a for-profit hospital, for-profit health system or for-profit medical school and, at the same time, serve on the board of directors of a medical foundation organized by a nonprofit hospital, nonprofit health system or nonprofit medical school.]

[(b)] (e) Any medical foundation organized on or after July 1, 2009, shall file a copy of its certificate of incorporation and any amendments to its certificate of incorporation with the Office of Health Care Access division of the Department of Public Health not later than ten business days after the medical foundation files such certificate of incorporation or amendment with the Secretary of the State pursuant to chapter 602.

[(c)] (f) Any medical group clinic corporation formed under chapter 594 of the general statutes, revision of 1958, revised to 1995, which amends its certificate of incorporation pursuant to subsection (a) of

Substitute Senate Bill No. 351

section 33-182cc, shall file with the Office of Health Care Access division of the Department of Public Health a copy of its certificate of incorporation and any amendments to its certificate of incorporation, including any amendment to its certificate of incorporation that complies with the requirements of subsection (a) of section 33-182cc, not later than ten business days after the medical foundation files its certificate of incorporation or any amendments to its certificate of incorporation with the Secretary of the State.

~~[(d)]~~ (g) Any medical foundation, regardless of when organized, shall file notice with the Office of Health Care Access division of the Department of Public Health and the Secretary of the State of its liquidation, termination, dissolution or cessation of operations not later than ten business days after a vote by its board of directors or members to take such action. A medical foundation shall, annually, provide the office with (1) a statement of its mission, (2) the name and address of the organizing members, (3) the name and specialty of each physician employed by or acting as an agent of the medical foundation, (4) the location or locations where each such physician practices, (5) a description of the services [it provides,] provided at each such location, (6) a description of any significant change in its services during the preceding year, (7) a copy of the medical foundation's governing documents and bylaws, (8) the name and employer of each member of the board of directors, and (9) other financial information as reported on the medical foundation's most recently filed Internal Revenue Service return of organization exempt from income tax form, or any replacement form adopted by the Internal Revenue Service, or, if such medical foundation is not required to file such form, information substantially similar to that required by such form. The Office of Health Care Access shall make such forms and information available to members of the public and accessible on said office's Internet web site.

Substitute Senate Bill No. 351

[(e)] (h) A medical foundation [shall not operate for profit and] may operate at such locations as are designated by its members.

[(f)] (i) A hospital, health system, [or] medical school, independent practice association or other business entity authorized to organize a medical foundation may organize and be a member of no more than one medical foundation.

(j) Nothing in this chapter shall be construed to modify, impair, supersede or create an exemption from the operation of any state antitrust law or to authorize conduct in violation of chapter 624 or 735a or any other state or federal law.

Sec. 8. Section 33-182ff of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

[Chapter 602 is applicable] The provisions of titles 33 and 34, as applicable, shall apply to a medical foundation organized pursuant to this chapter, except to the extent that any of the provisions of this chapter are interpreted to be in conflict with [the] such provisions, [of said chapter 602,] in which event the provisions of this chapter shall take precedence with respect to such medical foundation. A medical foundation organized under this chapter may consolidate or merge only with another medical foundation organized under this chapter or under chapter 594 of the general statutes, revision of 1958, revised to 1995, that is duly organized pursuant to this chapter, a professional corporation organized under chapter 594a, a limited liability company organized under chapter 613 or a partnership or limited liability partnership organized under chapter 614, if such corporation, company or partnership is organized to render the same specific professional services.

Approved June 2, 2016