



General Assembly

Amendment

February Session, 2016

LCO No. 5012



Offered by:

SEN. LOONEY, 11th Dist.
SEN. FASANO, 34th Dist.
SEN. GERRATANA, 6th Dist.
REP. RITTER M., 1st Dist.

To: Subst. Senate Bill No. 351

File No. 557

Cal. No. 350

**"AN ACT CONCERNING MATTERS AFFECTING PHYSICIANS
AND HOSPITALS."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

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

14 generated.

15 (b) (1) A covenant not to compete is valid and enforceable only if it
16 is: (A) Necessary to protect a legitimate business interest; (B)
17 reasonably limited in time, geographic scope and practice restrictions
18 as necessary to protect such business interest; and (C) otherwise
19 consistent with the law and public policy. The party seeking to enforce
20 a covenant not to compete shall have the burden of proof in any
21 proceeding.

22 (2) A covenant not to compete that is entered into, amended,
23 extended or renewed on or after July 1, 2016, shall not: (A) Restrict the
24 physician's competitive activities (i) for a period of more than one year,
25 and (ii) in a geographic region of more than twenty miles from the
26 primary site where such physician practices; or (B) be enforceable
27 against a physician if (i) such contract or agreement expires and is not
28 renewed, or (ii) the employment or contractual relationship is
29 terminated by the employer. Additionally, a covenant not to compete
30 between a hospital, health system, as defined in section 19a-508c of the
31 general statutes, medical school or medical foundation, organized
32 pursuant to subsection (a) of section 33-182bb of the general statutes,
33 as amended by this act, and a physician that is entered into, amended,
34 extended or renewed on or after July 1, 2016, shall restrict only the
35 physician's right to practice medicine with another hospital, a health
36 system, as defined in section 19a-508c of the general statutes, a medical
37 school or a medical foundation, organized pursuant to subsection (a)
38 of section 33-182bb of the general statutes, as amended by this act.

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

45 Sec. 2. Subsection (a) of section 19a-486i of the 2016 supplement to

46 the general statutes is repealed and the following is substituted in lieu
47 thereof (*Effective October 1, 2016*):

48 (a) As used in this section:

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

52 (2) "Captive professional entity" means a partnership, professional
53 corporation, limited liability company or other entity formed to render
54 professional services in which a partner, a member, a shareholder or a
55 beneficial owner is a physician, directly or indirectly, employed by,
56 controlled by, subject to the direction of, or otherwise designated by
57 (A) a hospital, [or] (B) a hospital system, (C) a medical school, (D) a
58 medical foundation, organized pursuant to subsection (a) of section 33-
59 182bb, as amended by this act, or (E) any entity that controls, is
60 controlled by or is under common control with, whether through
61 ownership, governance, contract or otherwise, another person, entity
62 or organization described in subparagraphs (A) to (D), inclusive, of
63 this subdivision;

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

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

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

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

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

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

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

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

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

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

104 Each health care provider that refers a patient to another health care
105 provider who is not a member of the same partnership, professional
106 corporation or limited liability company formed to render professional

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

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

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

136 (a) All hospitals and all nursing homes shall include on their
137 admission forms a question as to whether a person is a veteran or the
138 spouse of a veteran. All hospitals shall include on their admission
139 forms a conspicuous notice that a self-pay patient may, upon request,

140 receive a copy of the hospital charges related to such patient. Such
141 admission forms shall also include a conspicuous notice specifying the
142 name and contact information of a person whom the patient may
143 contact to request a copy of the hospital charges related to the patient.

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

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

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

160 As used in this chapter:

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

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

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

170 (4) "Health system" means a business entity consisting of a parent
171 corporation of one or more hospitals licensed pursuant to chapter
172 368v, and affiliated through governance, membership or some other
173 means;

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

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

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

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

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

202 [Such]

203 (b) Any (1) independent practice association, or (2) other business
204 entity that (A) is registered to do business in this state pursuant to title
205 33 or 34, (B) has a principal place of business in the state, and (C) has
206 sixty per cent or more of the entity's ownership and control held
207 individually or jointly by (i) an independent practice association, (ii) a
208 provider, or (iii) a professional partnership, professional corporation or
209 limited liability company that is not a captive professional entity, as
210 defined in section 19a-486i, as amended by this act, and that is formed
211 to render professional medical services, and each partner, shareholder
212 or member of such professional partnership, professional corporation
213 or limited liability company is a physician licensed under chapter 370,
214 may organize and become a member of a medical foundation for the
215 purpose of practicing medicine and providing health care services as a
216 medical foundation through employees or agents of such medical
217 foundation who are providers. The ownership or control of any
218 independent practice association or other business entity organizing a
219 medical foundation pursuant to this subdivision may not include any
220 hospital, health system, medical school or medical foundation
221 organized pursuant to subsection (a) of this section.

222 (c) A medical foundation shall be governed by a board of directors,
223 which shall consist of an equal or greater number of providers than
224 nonprovider employees of the members, in addition to such other
225 directors as may be elected by the members. The authority to appoint
226 or elect board members shall not be granted to any person or entity
227 that is not a member of the medical foundation.

228 [(2)] (d) Notwithstanding the provisions of this subsection, [(A)] (1)
229 no employee or representative of a for-profit hospital, for-profit health
230 system, for-profit medical school or any entity that owns or controls a
231 for-profit hospital, for-profit health system or for-profit medical school
232 may serve on the board of directors of a medical foundation organized
233 by a nonprofit hospital, nonprofit health system or nonprofit medical
234 school or a medical foundation organized pursuant to subsection (b) of

235 this section; [(B)] (2) no employee or representative of a nonprofit
236 hospital, nonprofit health system, nonprofit medical school or any
237 entity that owns or controls a nonprofit hospital, nonprofit health
238 system or nonprofit medical school may serve on the board of
239 directors of a medical foundation organized by a for-profit hospital,
240 for-profit health system or for-profit medical school or a medical
241 foundation organized pursuant to subsection (b) of this section; and
242 [(C)] (3) no person shall serve on the board of directors of [a] more
243 than one medical foundation, [organized by a for-profit hospital, for-
244 profit health system or for-profit medical school and, at the same time,
245 serve on the board of directors of a medical foundation organized by a
246 nonprofit hospital, nonprofit health system or nonprofit medical
247 school.]

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

254 [(c)] (f) Any medical group clinic corporation formed under chapter
255 594 of the general statutes, revision of 1958, revised to 1995, which
256 amends its certificate of incorporation pursuant to subsection (a) of
257 section 33-182cc, shall file with the Office of Health Care Access
258 division of the Department of Public Health a copy of its certificate of
259 incorporation and any amendments to its certificate of incorporation,
260 including any amendment to its certificate of incorporation that
261 complies with the requirements of subsection (a) of section 33-182cc,
262 not later than ten business days after the medical foundation files its
263 certificate of incorporation or any amendments to its certificate of
264 incorporation with the Secretary of the State.

265 [(d)] (g) Any medical foundation, regardless of when organized,
266 shall file notice with the Office of Health Care Access division of the
267 Department of Public Health and the Secretary of the State of its

268 liquidation, termination, dissolution or cessation of operations not later
269 than ten business days after a vote by its board of directors or
270 members to take such action. A medical foundation shall, annually,
271 provide the office with (1) a statement of its mission, (2) the name and
272 address of the organizing members, (3) the name and specialty of each
273 physician employed by or acting as an agent of the medical
274 foundation, (4) the location or locations where each such physician
275 practices, (5) a description of the services [it provides,] provided at
276 each such location, (6) a description of any significant change in its
277 services during the preceding year, (7) a copy of the medical
278 foundation's governing documents and bylaws, (8) the name and
279 employer of each member of the board of directors, and (9) other
280 financial information as reported on the medical foundation's most
281 recently filed Internal Revenue Service return of organization exempt
282 from income tax form, or any replacement form adopted by the
283 Internal Revenue Service, or, if such medical foundation is not
284 required to file such form, information substantially similar to that
285 required by such form. The Office of Health Care Access shall make
286 such forms and information available to members of the public and
287 accessible on said office's Internet web site.

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

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

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

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

300 [Chapter 602 is applicable] The provisions of titles 33 and 34, as
 301 applicable, shall apply to a medical foundation organized pursuant to
 302 this chapter, except to the extent that any of the provisions of this
 303 chapter are interpreted to be in conflict with [the] such provisions, [of
 304 said chapter 602,] in which event the provisions of this chapter shall
 305 take precedence with respect to such medical foundation. A medical
 306 foundation organized under this chapter may consolidate or merge
 307 only with another medical foundation organized under this chapter or
 308 under chapter 594 of the general statutes, revision of 1958, revised to
 309 1995, that is duly organized pursuant to this chapter, a professional
 310 corporation organized under chapter 594a, a limited liability company
 311 organized under chapter 613 or a partnership or limited liability
 312 partnership organized under chapter 614, if such corporation,
 313 company or partnership is organized to render the same specific
 314 professional services."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	New section
Sec. 2	<i>October 1, 2016</i>	19a-486i(a)
Sec. 3	<i>July 1, 2016</i>	19a-508d
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>October 1, 2016</i>	19a-509
Sec. 6	<i>October 1, 2016</i>	33-182aa
Sec. 7	<i>October 1, 2016</i>	33-182bb
Sec. 8	<i>October 1, 2016</i>	33-182ff