



General Assembly

Amendment

February Session, 2016

LCO No. 5148



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, unless such employment or contractual
30 relationship is terminated for cause. Additionally, a covenant not to
31 compete between a hospital, health system, as defined in section 19a-
32 508c of the general statutes, medical school or medical foundation,
33 organized pursuant to subsection (a) of section 33-182bb of the general
34 statutes, as amended by this act, and a physician that is entered into,
35 amended, extended or renewed on or after July 1, 2016, shall restrict
36 only the physician's right to practice medicine with another hospital, a
37 health system, as defined in section 19a-508c of the general statutes, a
38 medical school or a medical foundation, organized pursuant to
39 subsection (a) of section 33-182bb of the general statutes, as amended
40 by this act.

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

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48 the general statutes is repealed and the following is substituted in lieu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

50 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

162 As used in this chapter:

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

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

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

172 (4) "Health system" means a business entity consisting of a parent
173 corporation of one or more hospitals licensed pursuant to chapter
174 368v, and affiliated through governance, membership or some other
175 means;

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

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

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

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

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

204 [Such]

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

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

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

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

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

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

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

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

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

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

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

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

302 [Chapter 602 is applicable] The provisions of titles 33 and 34, as
 303 applicable, shall apply to a medical foundation organized pursuant to
 304 this chapter, except to the extent that any of the provisions of this
 305 chapter are interpreted to be in conflict with [the] such provisions, [of
 306 said chapter 602,] in which event the provisions of this chapter shall
 307 take precedence with respect to such medical foundation. A medical
 308 foundation organized under this chapter may consolidate or merge
 309 only with another medical foundation organized under this chapter or
 310 under chapter 594 of the general statutes, revision of 1958, revised to
 311 1995, that is duly organized pursuant to this chapter, a professional
 312 corporation organized under chapter 594a, a limited liability company
 313 organized under chapter 613 or a partnership or limited liability
 314 partnership organized under chapter 614, if such corporation,
 315 company or partnership is organized to render the same specific
 316 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