



REID AND RIEGE P.C.
COUNSELLORS AT LAW

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HEALTH CARE PRACTICE CLIENT ALERT

New Limitations on Physician Non-Competition Agreements

Connecticut recently passed into law Public Act 16-95 (the “Act”), which addresses a range of matters affecting Connecticut health care providers. This Alert summarizes the new limitations on physician non-competition restrictions contained in Section 1 of the Act.

The new law provides that any physician non-competition provision, referred to as a “covenant not to compete,” that is entered into, amended, extended, or renewed on or after July 1, 2016, may extend for only one year after termination of employment and cover the geographic area within a radius of fifteen miles from “the primary site where the physician practices.” The non-competition provision must be “separately and individually” signed by the physician. It is not valid or enforceable against a physician if: (1) it is not made in anticipation of an ownership or partnership agreement and the contract expires or is not renewed, unless prior to expiration the employer makes a bona fide offer to renew the contract on the same or similar terms; or (2) the contractual or employment relationship is terminated by the employer for reasons other than “for cause” (which is undefined). In essence, this means that the restriction will not be enforceable in circumstances where the employer either terminates the contract without cause or allows a contract with a non-owner employee to lapse without an opportunity for the employee to extend or renew on the same or similar terms.

Additionally, consistent with existing Connecticut case law, the new law provides that a non-competition restriction is valid and enforceable (regardless of when it was entered into, amended, renewed, etc.) only if it is: (1) necessary to protect a legitimate business interest; (2) reasonably limited in time, geographic scope and practice restrictions as necessary to protect the business interest; and (3) otherwise consistent with the law and public policy. The new law further provides that the burden is on the employer to prove these points in order to enforce the restriction.

In view of the timing and far-reaching effects of the new law, we urge affected clients to contact us to discuss its impact on their arrangements. We further recommend that clients that have physician non-competition restrictions that are in place today, or that are currently being negotiated, contact us soon because you may want to take action prior to July 1, 2016.

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