

New Connecticut Statute Restricts Physician Non-Compete Agreements

By Clifford R. Atlas and Erik J. Winton

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The Connecticut General Assembly has passed a bill that establishes significant new restrictions on physician non-compete agreements in the state. The governor is expected to sign the bill (Senate Bill 351, as amended) soon.

Under SB 351, a physician covenant not to compete is valid and enforceable only if it is:

1. necessary to protect a legitimate business interest;
2. reasonably limited in time, geographic scope, and practice restrictions as needed to protect that interest; and
3. otherwise consistent with the law and public policy.

The statute also specifies that the party seeking to enforce a physician covenant not to compete bears the burden of proof at any proceeding. These factors and burden of proof are consistent with current Connecticut common law as to non-compete agreements in general. The remainder of the new statute is not.

For covenants not to compete that are entered into, amended, or renewed on or after July 1, 2016, the statute prohibits restricting a physician's competitive activities (i) for longer than one year and (ii) beyond 15 miles from the primary site where the physician practices (*i.e.*, the office, facility, or location from which a majority of the revenue from the physician's services is generated).

Additionally, a covenant not to compete entered into, amended, or renewed on or after July 1, 2016, is not enforceable against a physician if (i) the employment agreement at issue was not made in anticipation of, or as part of, a partnership or ownership agreement and the agreement expires and is not renewed, unless, prior to the expiration, the employer makes a bona fide offer to renew the contract on the same or similar terms and conditions, or (ii) the employer terminates the employment or contractual relationship without cause.

The statute sets an additional restriction for covenants not to compete that are entered into, amended, or renewed on or after July 1, 2016, between physicians and (1) hospitals, health systems, or medical schools, or (2) medical foundations formed by any of these entities. It allows these covenants to restrict a physician's right to practice only with another such entity or medical foundation.

Finally, SB 351 provides that if a covenant is rendered void and unenforceable under the statute, the remaining provisions of the contract remain in full force and effect, including provisions requiring the payment of damages for injuries suffered because of the contract's termination.

Jackson Lewis attorneys are available to answer inquiries regarding SB 351 and assist healthcare employers to address specific non-compete scenarios.

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Meet the Authors



[Clifford R. Atlas](#)

Principal
New York Metro
New York City 212-545-4017
Email



[Erik J. Winton](#)

Principal
Boston 617-367-0025
Email

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