



127 Washington Avenue, East Building, 3rd Floor, North Haven, CT 06473
Phone (203) 865-0587 Fax (203) 865-4997 www.csms.org

**Connecticut State Medical Society Testimony in Support of
Senate Bill 377 An Act Prohibiting the Use Of Noncompete Clauses In
Physician Employment Contracts
Public Health Committee
February 25, 2019**

Senator Abrams, Senator, Representative Steinberg and members of the Public Health Committee, on behalf of the physicians and physicians in training of our organizations listed above, thank you for the opportunity to present this testimony on **Senate Bill 377 An Act Prohibiting the Use Of Noncompete Clauses In Physician Employment Contracts.**

In 2016 the General Assembly overwhelmingly passes Public Act 16-95. Section 1 of the Act sought to begin addressing the proliferation of “Covenant not to compete” clauses that physicians had to sign when forced by circumstances to become employed by hospitals and healthcare systems. Language limited the duration of such clauses to one year and limited geographic regions to fifteen miles from the physician’s primary site of practice. However, as the reach control of hospitals and large healthcare systems increase, opportunities for physicians to leave such settings upon the end or termination of a contract and remain in Connecticut continue to decrease.

Senate Bill 377 now takes the step to prohibit noncompete covenants in physician employment contracts. CSMS represents many types of physicians, including physicians in solo and small practice groups, large practice groups and those employed by hospitals and hospital systems. As such, we recognize the difficulties faced by all physicians and understand the potentially divisive nature of this issue. The noncompete covenant has a long history in physician employment contracts and, outside of compensation historically is one of the most negotiated and hotly contested clauses within the employment contract.

CSMS supports some action as a protection for employed physicians who are in a large healthcare system setting, under certain circumstances. The employed physician is often given a “take it or leave it” contract with minimal ability to negotiate terms. CSMS also recognizes the interests of large employers to retain and provide access to physicians for their patient population. Public Act 16-95 states that the noncompete covenant is enforceable “if the employer makes a bona fide offer to renew the contract on the same or similar terms and conditions...” If an employer’s new agreement or proposed amended agreement substantially changes a physician’s contract, the noncompete covenant should not be enforceable. This was implied in Public Act 16-95, passed in 2016, but may need to be clarified (or strengthened).

The “business” of delivering healthcare and providing access to services differs from other industries. Citizens need access to healthcare and Connecticut needs highly trained and qualified physicians to provide them. As the healthcare environment rapidly changes, and the needs and delivery models advance and shift, physicians need to make the best decisions as to where and how to practice in the best interest of their patients and the legislature should support bills that ensure access to and retention of these qualified physicians in Connecticut. As we recognize both the

interests of the employed physician and his/her employer, an alternative to Senate Bill 377 might be an amendment to Public Act 16-95 strengthening the legitimate rights of physicians.

CSMS recognizes and appreciates the complexity involved in this issue. We further appreciate efforts to enact policies that allow physicians to determine, where and how they want to practice. However, we do not feel it is the time to set hard and fast legislative standards around the non-compete clause. We believe that further discussion and study from all stakeholders to discuss and appreciate the complexity of this issue is necessary. We would welcome being a part of that discussion.