Trade Secrets & Noncompete Blog
NEWS & UPDATES ON DEVELOPMENTS IN THE LAW OF RESTRICTIVE COVENANTS, UNFAIR COMPETITION & TRADE SECRETS

EPSTEIN BECKER GREEN

Posted on August 9th, 2016 by David J. Clark

Connecticut and Rhode Island Enact Statutes Restricting Physician Non-Competes

David J. Clark

Last month, two New England states enacted laws restricting the use of non-competition provisions in agreements governing an employment, partnership or other professional relationship of a physician.

Broadly speaking, the aim of both of these laws is to protect patients' choice regarding medical care by limiting the ability of employers or partners to contract with physicians such that the physicians' ability to practice medicine would be restricted at the end of the professional relationship.

Effective on July 12, 2016, the new law in Rhode Island (R.I. Gen. Laws §5-37-33) prohibits non-compete language in most physician agreements. It renders void and unenforceable "any restriction on the right to practice medicine" found in virtually any contract creating the terms of employment, partnership or other professional relationship involving a state-licensed physician. The new law therefore invalidates non-competition or patient non-solicitation provisions for Rhode Island physicians. The new law does not apply in connection with the purchase and sale of a physician practice, provided the restrictive covenant is less than five years in duration.

Effective on July 1, 2016, the new law in Connecticut (Public Act No. 16-95) is less sweeping than the Rhode Island law. Rather than prohibiting physician non-competes, the Connecticut law limits the allowable duration (to one year) and geographical scope (up to 15 miles from the "primary site where such physician practices") of any new, amended or renewed physician agreement. The new law also renders physician non-competes unenforceable if the physician's employment or contractual relationship is terminated without cause.

Rhode Island and Connecticut are the latest in a slowly growing number of states that have taken legislative action to limit the use of physician non-competes. Their neighbor Massachusetts was an early adopter of such a statute. Mass. Gen. Laws chapter 112, §12X (enacted in 1977) bars physician non-competes which include any restriction of the right of a physician to practice medicine in any geographic area for any period of time after termination. Much of the language in the Massachusetts law appears in the recently enacted Rhode Island statute.

Similar language appears in Delaware and Colorado statutes dating from the early 1980s, which state that covenants are void if they restrict the rights of physicians to practice medicine upon termination of the agreements containing the covenants.

More recently, Texas (in 1999) and Tennessee (in 2012) both enacted statutes (as did Connecticut) applying stricter standards to physician non-competes than are applicable to employee non-competes in general, while stopping short of invalidating such physician non-competes.

It remains to be seen if the enactment this summer of these statutes in Connecticut and Rhode Island is merely a coincidence, or foreshadows more state legislatures pursuing such limitations of physician non-competes.

Tags: Connecticut, David J. Clark, Legislature, Massachusetts, Physician Agreements, Rhode Island
.