

February 26, 2020

Testimony Presented by David Boisoeneau, M.D.

Art Tarantino, M.D.

S.B. No. 143 (RAISED) AN ACT PROHIBITING COVENANTS NOT TO COMPETE INVOLVING PHYSICIANS

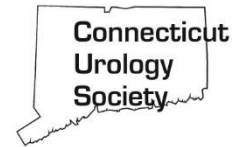
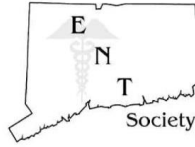
Good Afternoon Senators Abrams and Somers, Representatives Steinberg and Petit, and other distinguished members of the Public Health Committee. For the record, my name is David Boisoeneau, M.D and I am here with my colleague Art Tarantino, M.D. I am a board-certified Otolaryngologist practicing in Waterford and Dr. Tarantino is a board certified urologist practicing in Hartford. We are here today on behalf of the Connecticut ENT Society and the Connecticut Urology Society, as well as our professional colleagues in Dermatology and Ophthalmology. Collectively, we represent hundreds of physician members who provide well over a million patient visits per year within the state of Connecticut. On behalf of the above-mentioned societies, We are here to express our strong support of SB143: An Act Prohibiting the Use of Covenants Not to Compete Involving Physicians.

In Connecticut, most, if not all, physician employment contracts contain non-compete clauses.

What are Non-competes? Non-competes, also known as restrictive covenants, essentially function as restraints on trade. In the medical arena, non-compete clauses prevents physicians from caring for their patients when a physician begins new employment or, alternatively, departs on a self-employment basis. They also restrain physicians from practicing medicine in a predetermined geographic area for a specified period of time.

Non-compete provisions are found in contracts created by both small private medical practices, as well as bigger entities, such as hospitals and managed care organizations. Therefore, this is not an issue limited to the size or organizational structure of the practice.

We would like to outline two important reasons why we, a diverse group of Physicians, feel that you, our state Legislators, should once again support legislation to prohibit the use of physician non-compete clauses in Connecticut. (2019 SB 377 passed out of this committee)

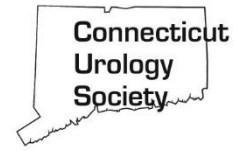
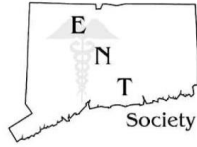


1. As always, the first and most important reason is to do what is best for our Patients. The doctor-patient relationship is at the heart of medicine. When a patient and a physician come together to address a medical problem, that therapeutic alliance should continue however long it takes to care for the patient. I think we can all agree that a patient should never be restricted from choosing a physician simply because of changes in a physician's employment. Likewise, a physician who leaves a practice where he or she has cultivated many patient relationships, should be entitled to continue the care of those patients in the future, without geographic or temporal restraints, no matter whom their employer may be.
2. Second, Connecticut currently faces a critical problem attracting new physicians. As a medical community, we have come to the realization that non-competes are one of the many factors contributing to our state's inability to attract young physicians.

While we both are very happy with our employers, more than half of new physicians entering the workforce will change jobs within their first few years of practice. Often this decision is made more difficult by geographic limitations placed on physicians by non-compete clauses in their employment contracts. Unfortunately, we often see young physicians leaving our state because of dissatisfaction with hospital- and managed care organization-based employment, and restrictive covenants that prevent them from seeking alternate employment in the communities they serve. Many physicians who would consider practicing in Connecticut will never even join our physician workforce, because of non-competes and other financial, administrative, and legal burdens our state places on physician employment.

In summary, non-compete clauses not only hurt physicians trying to practice in Connecticut, but may also conflict with patient choice in selecting the physician(s) they want for treatment purposes. Non-competes negatively impact the doctor-patient relationship and the continuity of patient care.

It is for these two important reasons that we ask this committee to SUPPORT this bill which opposes non-compete clauses for physicians. This is an important step to ensure



that our patients will continue to enjoy freedom of choice and high quality medical care in Connecticut.