



**TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE
PUBLIC HEALTH COMMITTEE
Monday, March 29, 2021**

**SB 1087, An Act Concerning The Recruitment And Retention Of Health Care
Providers In The State**

The Connecticut Hospital Association (CHA) appreciates this opportunity to submit testimony concerning **SB 1087, An Act Concerning The Recruitment And Retention Of Health Care Providers In The State**. CHA opposes Section 2 of the bill.

Before commenting on this bill, it is important to acknowledge that, since early 2020, Connecticut's hospitals and health systems have been at the center of the global public health emergency, acting as the critical partner in the state's response to COVID-19. Hospitals expanded critical care capacity, stood up countless community COVID-19 testing locations, and are a critical component of the vaccine distribution plan. Through it all, hospitals and health systems have continued to provide high-quality care for everyone, regardless of ability to pay.

SB 1087 would amend the General Statutes to prohibit any employment, partnership, or ownership contract or agreement entered into, amended, or renewed from containing a covenant not to compete.

In 2016, the Connecticut General Assembly adopted Public Act 16-95, codified at Section 20-14p of the General Statutes, which establishes statutory limitations on covenants not to compete in physician contracts.

The statute defines a covenant not to compete as "any provision of an employment or other contract or agreement that creates or establishes a professional relationship with a physician and restricts the right of a physician to practice medicine in any geographic area of the state for any period of time after the termination or cessation of such partnership, employment, or other professional relationship."

The statute effectively limits covenants not to compete for physicians that are entered into, amended, extended, or renewed on or after July 1, 2016 to:

A period of not more than one year, and

A geographic scope of no more than fifteen miles from the primary site where such physician practices.

In addition, the statute includes provisions that:

- Require that each covenant not to compete entered into, amended, or renewed on or after July 1, 2016, be separately and individually signed by the physician.
- Provide that the remaining provisions of any contract or agreement that includes a covenant not to compete that is rendered void and unenforceable, in whole or in part, remain in full force and effect, including provisions that require the payment of damages resulting from any injury suffered by reason of termination of such contract or agreement.
- Require that if such a covenant is made, it will be enforceable only if the covenant was:
(a) in anticipation of, or as part of, a partnership or ownership agreement and such contract or agreement expires and is not renewed, unless, prior to such expiration, the employer makes a bona fide offer to renew the contract on the same or similar terms and conditions; or (b) if the employment or contractual relationship is terminated by the employer for cause.

Connecticut General Statutes Section 20-14p represents an effort to balance the interests of the physician and the employer. It clearly constrains the duration, geographical scope, and application of covenants not to compete in physician employment contracts in the interests of maintaining access to care, continuity of care, and patient choice. It also recognizes the legitimate use of reasonable restrictions in certain circumstances, such as when a physician decides to leave a practice and open up their own practice in the same town.

Our existing statute allows an employer to use a non-compete clause (i) to discourage an employed physician from leaving to join a competing local healthcare provider, (ii) to protect the employer's disproportionate investment in a physician's training and development, and (iii) to mitigate the adverse financial impact on an employer's existing practice, which may result from a physician leaving a practice group to join another local practice group.

The Connecticut General Assembly engaged in a long, arduous, and thorough examination of the use of covenants not to compete in physician contracts a few short years ago. As noted, the outcome was a statute that achieves a balance between the legitimate interests of both the employer and the physician. **We urge you to leave the current statute intact**, as this change would dramatically alter the fine balance we all worked so hard to achieve.

In reference to the other sections of the bill, we support the Committee's efforts to provide grants or loan forgiveness for providers of both primary and mental health care. Between FY 2015 and FY 2020, Connecticut hospitals experienced a 27% increase in patient visits with a behavioral health diagnosis.¹ This number does not include behavioral health services delivered by hospital clinicians via telehealth, which increased to historic and unprecedented levels during the COVID-19 pandemic. Our state is already experiencing a shortage of mental health and addiction professionals, resulting in limited access to needed services, medications, and treatment and increased hospitalizations. We ask that the loan reimbursement program contemplated in Section 4 be expanded to include clinicians employed by a hospital. This change is essential to ensure that incentives adopted by the state to recruit and retain qualified

¹ Data Source: FY 2020 ChimeData

behavioral health clinicians are equitably applied among Connecticut's care providers in order to effectively address this shortage.

We urge the Committee to expand these programs to allow for providers in these fields to be eligible regardless of practice location. We know that prior to the public health emergency we had a shortage of professionals meeting the needs of patients in these fields. We expect that long after the emergency is over we will see an influx of patients in need of services and we encourage the Committee to do all you can do to assist in building the capacity to address these important needs.

Thank you for your consideration of our position. For additional information, contact CHA Government Relations at (203) 294-7310.