

COVENANTS NOT TO COMPETE ARE PROHIBITED IN CONNECTICUT FOR HOME HEALTH BUSINESSES

Working Together

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Just as the Connecticut legislature was about to vote on the budget this spring, a small provision was dropped into the budget bill. The provision, Section 305 of Public Act 19-117, states that “any covenant not to compete is against public policy and shall be void and unenforceable.” For purposes of this provision, “covenant not to compete” is defined as “any contract or agreement that restricts the right of an individual to provide homemaker, companion or home health services (1) in any geographic area of the state for any period of time, or (2) to a specific individual.”

This law can have a significant impact on home health and companion and homemaker businesses, many of which invest time and money on background checks and training for their employees on the assumption that those employees will not take clients or leave for competitors. It is difficult to know how to comply with the law. No term other than “covenant not to compete” is defined in the law, leaving open what the terms “individual,” “homemaker,” “companion,” and “home health” mean. It is not clear whether the term “covenant not to compete” is intended to include non-solicitation agreements, pursuant to which an employee agrees not to try to take customers from an employer. The plain language of the law would appear to bar any person or entity from trying to prevent a home care worker from soliciting any individual, including an individual that the home care worker cared for through an agency. In addition, the law’s applicability to pre-existing contracts or to pending litigation relating to a “covenant not to compete” is not specified.

There were no hearings on this law and it was not debated in the legislature. One would hope that in the next legislative session, the law will either be repealed or studied and revised to be clearer and more balanced. In the meantime, home health businesses must be aware of the law and consider how to comply with it.

Tags: Home Health, Non-Compete