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Via Electronic Mail

August 3, 2023

The Honorable Kathleen Hochul
Governor of New York
The State Capitol Building
Albany, New York 12224

Re: S.3100A AN ACT to amend the labor law, in connection with prohibiting non-compete agreements and certain restrictive covenants.

Dear Governor Hochul:

The Society for Cardiovascular Angiography & Interventions (SCAI) is writing in support for S.3100A AN ACT to amend the labor law, in relation to prohibiting non-compete agreements and certain restrictive covenants. We urge you to sign this critically important legislation into law.

SCAI has dedicated its work to advancing the profession and is the designated society for guidance, representation, professional recognition, education, and research opportunities for invasive and interventional cardiology professionals. For more than 40 years, SCAI has personified professional excellence and innovation globally, fostering a trusted community of more than 4,500 members dedicated to medical advancement and lifesaving care for adults and children with cardiovascular disease.

The widespread use of non-compete agreements in New York has restricted career decision-making for SCAI members to the detriment of patients. As you know, non-compete clauses restrict healthcare professionals from practicing within a certain geographical area or for certain time periods after departing their current employer. As clinicians, we believe that these clauses harm patients significantly by limiting their access to high-quality and patient-centric cardiovascular care.

In 2008, approximately 85% of SCAI members operated in private-practice settings. Approximately 15% of SCAI members were in an employed/integrated model. Now, the situation is reversed. Nearly 85% of our members are employed by healthcare systems and just 15% remain in private practice settings. Consolidation among hospitals and healthcare systems means that non-compete clauses now have a much more expanded geographic reach.

An entire state may be served by a single dominant healthcare system.

This dramatic shift in the employment structure of interventional cardiologists, coupled with the common “take it or leave it” non-compete clauses and other restrictive covenants in cardiologist employment contracts, is the reason our members have such a critical interest in this topic. Beyond geographic restrictions, there is evidence that non-compete clauses and other restrictive covenants have adverse effects on aspects of clinicians’ work life – an extremely important topic, given the high rates of burnout, suicide, and early retirement now seen routinely.

As you know, the Federal Trade Commission (FTC) has drafted a rule that seeks to ban non-compete agreements. While we applauded the work of the FTC in this matter, we have grave concerns that their efforts will be stymied in the courts for years to come.

Finally, S.3100A has reasonable exceptions that address employers’ concerns, such as allowing fixed terms of service, prohibiting disclosure of trade secrets, or confidential and proprietary information, and prohibiting the solicitation of the employer’s clients that doctors come to know during employment. It is imperative that patients have access to a variety of specialized providers who can offer them the best possible care. Non-compete clauses limit this access, forcing patients to travel long distances or settle for subpar care. These clauses also add a sense of monopolization in certain areas, driving up costs and creating a barrier to entry for new providers.

We urge you to sign S.3100A as it will protect physician autonomy and give patients the freedom to choose the healthcare providers that best suit their needs.

Sincerely,

A handwritten signature in black ink, appearing to read "George Dangas". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

George Dangas, MD, PhD, FSCAI
President