

LOCAL

Former 21st Century Oncology docs suing over contracts win Florida lawmakers' backing

Frank Gluck The News-Press

Published 4:46 p.m. ET May 13, 2019 | Updated 6:36 p.m. ET May 13, 2019

A group of cancer doctors suing 21st Century Oncology in federal court to get out of their non-compete contracts may have found a quicker route to win their legal battle: the Florida Legislature.

State lawmakers have sent a measure to Gov. Ron DeSantis that would invalidate such employment agreements for specialty doctors — in this case, radiation oncologists — working for providers that employ all such specialists in a given county.

The language was inserted into a larger health care bill that the House and Senate unanimously passed last month. The bill's sponsor, Rep. Ana Maria Rodriguez, R-Doral, could not be reached for comment.

Provisions invalidating such contracts had been included in several bills this session following lobbying financed by one of the doctors involved in the lawsuit, Michael Katin. The lobbyist, Jim Eaton, told The News-Press that their effort benefited from lawmakers' desire this session to lift restrictions on health care practitioners.

Katin, one of the founding doctors of 21st Century Oncology and among the plaintiffs now suing the company, called it a victory for patient choice.

"I think cancer patients deserve the right to choose the physician they feel most comfortable with in some of the most trying moments of their lives," Katin said. "My patients deserve the opportunity to choose who treats them. We simply want to continue caring for our patients."

21st Century Oncology sees it a bit differently.

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In a statement to media outlets, John Terzaken, a lawyer representing the company in the federal lawsuit, characterized it as "a political side door to side-step the contracts they personally bargained."

"If this legislation becomes law, it will create bad public policy and an unlevel playing field in the state's medical marketplace," his statement continued. "It will result in medical providers across Florida not being subjected to, nor protected by, the same established legal standards, a change that puts at risk the quality and continuity of care of Florida."

Gov. DeSantis' office did not respond when asked if he planned to sign the bill, which includes a number of unrelated health care provisions. The governor was scheduled to be in New York on Monday.

The doctors filed the lawsuit against 21st Century Oncology in March. They allege the cancer-care provider acts as a "monopoly" by employing all radiation oncologists in Lee, Collier and Charlotte counties and, through restrictive contracts, prevents them from leaving and competing against them.

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They further allege that the company provides strong incentives, "financial and otherwise," for its doctors to refer all patients needing radiation treatment to only 21st Century Oncology providers.

"Such conduct illegally perpetuates Defendants' monopoly, locks out competition, and enables Defendants to charge significantly inflated prices for the provision of radiation oncology services," the lawsuit states.

Other physicians suing are Arie Pablo Dosoretz and Amy Fox, the son and daughter of Daniel Dosoretz, a company founder and CEO until 2017; and James H. Rubenstein, another company founder.

All have resigned. But because of their multi-year non-compete contracts, they are prohibited from practicing in Southwest Florida.

Representatives of 21st Century Oncology argue that the doctors simply want to set up a competing practice and are using claims of illegal business practices as a means of getting out of their employment contracts.

They note that all were longtime, high-level employees who were participants in the very

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The case was also complicated by the fact that the employment contracts were put in place before the company sought Chapter 11 bankruptcy protection in 2017. The bankruptcy court had approved the company's reorganization plan with them in effect, meaning that it would likely have to weigh in as well.

The plaintiffs in the case have not commented on their future plans or if they plan to set up a practice to compete regionally with 21st Century Oncology.

Their attorney in the case, the Miami attorney Luis Suarez, said he was pleased that the Legislature had endorsed the idea that non-compete contracts offered by providers employing all of a region's given specialists are not legally binding.

"These non-compete contracts deny patients access to their physicians and drive up health care costs," he said.

Robert Bueckert, 74, of Cape Coral, had been receiving treatment for Stage 4 melanoma from Rubenstein, one of the former 21st Century Oncology doctors trying to get out of their non-compete contracts.

Bueckert said he learned about Rubenstein's resignation when calling to confirm an appointment with him. He said he never received written notice from the doctor or the company.

"I won't go to anyone else. Basically, he saved my life," Bueckert said. "I'm waiting for him to get going again."

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