

Client Alert

January 20, 2023

CDPAP RFO

DOH has extended the "Anticipated Contract Award Date" to April 1, 2023 from January 15, 2023. The email advising of the extension provided no additional information from DOH or OMIG with respect to the ongoing review of the attestations that were submitted in November 2022. The additional awards will be made to fiscal intermediaries who satisfied the requirements of having served, at any time during the period January 1, 2020 through March 31, 2020, at least 200 CDPAP consumers in New York City or 50 CDPAP consumers in the rest of the state.

FTC ISSUES PROPOSED RULE

On January 5, 2023, the United States Federal Trade Commission proposed a new [rule](#) which would (1) prevent employers from entering into non-compete clauses with workers and (2) require employers to rescind non-compete clauses in existing agreements with workers. The proposed rule would ban non-compete provisions of labor contracts, which prevent workers from leaving for a competitor or starting a competing business for months or years after their employment, often within a certain geographic area.

To address problems associated with non-compete clauses, the FTC's proposed rule would make it illegal for an employer to:

- enter into or attempt to enter into a non-compete with a worker;
- maintain a non-compete with a worker; or
- represent to a worker, under certain circumstances, that the worker is subject to a non-compete.

The proposed rule would apply to independent contractors and anyone who works for an employer, whether paid or unpaid. If adopted, the rule would supersede existing state laws.

The definition of non-compete clause would generally **not** include other types of restrictive employment covenants—such as non-disclosure agreements and client or customer non-solicitation agreements—because these covenants generally do not prevent a worker from seeking or accepting employment with a person or operating a business after the conclusion of the worker's employment with the employer.

Also, The requirements of the rule would not apply to a non-compete clause that is entered into by a person who is selling a business entity or otherwise disposing of all of the person's ownership interest in the business entity, or by a person who is selling all or substantially all of a business entity's operating assets, when the person restricted by the non-compete clause is a substantial owner of, or substantial member or substantial partner in, the business entity at the time the person enters into the non-compete clause.

The FTC's proposal would create "rules concerning unfair methods of competition" under a new subchapter J, Part 910. The public may submit comments on the proposal for 60 days, at which point the FTC will move to make it final. If approved, the rule would take effect 180 days after the final version is published.

Contact our office with questions.

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