IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

SWAN PRACTICE HOLDINGS, P.C.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 2026-0786-BWD
	)	
YOUNG-JIK LEE,	)	
	)	
Defendant.	)	

ORDER DENYING MOTION FOR CERTIFICATION OF INTERLOCUTORY APPEAL

WHEREAS:

A. Defendant Young-Jik Lee ("Defendant") has moved for certification of interlocutory appeal (the "Application") of this Court's October 30, 2026 Preliminary Injunction Order (the "Order"), which memorialized a September 23, 2026 oral ruling on plaintiff Swan Practice Holdings, P.C.'s ("Plaintiff") motion for preliminary injunction (the "Ruling"). Def. Young-Jik Lee's Appl. for Certification of Interlocutory Appeal [hereinafter Appl.], Dkt. 104; Prelim. Inj. Order [hereinafter Order], Dkt. 103; Tr. of Sept. 23, 2026 Telephonic Bench Ruling on Pl.'s Mot. for Prelim. Inj. [hereinafter Tr.], Dkt. 100.

B. As set forth in the Ruling, in October 2023, Plaintiff, a California professional corporation, acquired nonparty Seoul Medical Group ("SMG"), an independent practice association that operates primarily in Los Angeles, Santa Clara, and Orange Counties in California (the "Merger"). Tr. at 4:11–16.

C. An independent practice association ("IPA") is a network of physicians and medical facilities under which doctors maintain private practices but join together in a network to negotiate insurance contracts and health plans. *Id.* at 4:17–21. SMG arranges insurance coverage for Korean and other Asian American patient populations, particularly for Medicare Advantage beneficiaries. *Id.* at 4:22–24. Under a Medicare Advantage plan, the government purchases coverage from private health plans by making payments per enrollee. *Id.* at 5:1–3. An enrollee receives care from a primary care physician. *Id.* at 5:3–4. SMG contracts with the healthcare plans and separately with the physicians who provide medical care. *Id.* at 5:4–5. Put simply, SMG serves as a middleman between Medicare Advantage plans required to pay for covered patients' medical services and the physicians entitled to receive payment for those services. *Id.* at 5:6–10. SMG receives payment from the healthcare plans on a capitated basis—generally a percentage of the premium received by the health plan from Medicare—and then makes payments to the physicians based on the services rendered pursuant to an agreed-upon methodology. *Id.* at 5:10–15. SMG takes on risk; if an enrollee uses more services than anticipated, SMG covers the additional cost, and if the enrollee uses fewer services than expected, SMG makes a greater profit. *Id.* at 5:15–19. SMG is a "risk-bearing organization" under California law. *Id.* at 5:19–20.

D. Defendant is a primary care physician who operates a medical practice in Los Angeles, California. *Id.* at 6:4–6. At the time of the Merger, Defendant owned 5.7% of SMG's equity and served on SMG's board of directors. *Id.* at 6:8–10. In connection with the Merger, Defendant received approximately $29 million in cash, $18 million in rollover equity in connection with the Merger, and a proportionate interest in a $50 million seller promissory note. *Id.* at 6:10–14.

E. As a condition to closing, on September 29, 2023, Plaintiff and Defendant executed an Individual Restrictive Covenant Agreement ("RCA") containing restrictive covenants provision. *Id.* at 6:24–8:24.

F. Section 3(c) of the RCA (the "Customer Non-Solicitation Provision") states, in part:

> During the period commencing on the Closing Date and ending five (5) years thereafter, the [Defendant] shall not, and shall cause the Covered Entities not to, directly or indirectly: . . . .
>
> > (c) call on, induce or solicit or attempt to call on, induce or solicit, any client, investor, customer, supplier, payer, Participating Provider, service provider, licensee, licensor or other business relation of any entity in the Buyer Company Group to cease doing business with the Buyer Company Group, or in any way interfere adversely with the relationship between any such client, customer, investor, supplier, payer, service provider, licensee or business relation and the Buyer Company Group.

Verified Compl., Ex. B [hereinafter RCA] § 3(c), Dkt. 4.

G. Section 4(a) (the "Noncompete") states that:

> During the period commencing on the Closing Date and ending five (5) years thereafter, the [Defendant] shall not, and shall cause the Covered Entities not to, directly or indirectly:
>
> > (a) contract with or attempt to contract with a RBE, other than an entity in the Buyer Company Group or a Person who is a Participating Provider, in connection with any arrangement or agreement pursuant to which [Defendant] would provide professional services to Medicare Advantage or Medicare-Medicaid dual-eligible beneficiaries, whether on a fee-for-service, risk, or other basis ("Covered Services") within the Service Area . . . .

Id. § 4(a) (emphasis removed).

H. Section 4(c) (the "Enrollee Non-Solicitation Provision") states that:

> During the period commencing on the Closing Date and ending five (5) years thereafter, the [Defendant] shall not, and shall cause the Covered Entities not to, directly or indirectly: . . . .
>
> > (c) in any manner, except as otherwise permitted by Law, (A) cause or solicit, or attempt to cause or solicit, an Enrollee to change or transfer their association with, or election or enrollment as a participant of, an RBE operated by any entity in the Buyer Company Group to another RBE, or (B) recommend or encourage any Enrollee to terminate his or her existing managed care plan membership, except if such transfer or termination is, in the reasonable medical judgment of [Defendant], in the best interests of such Enrollee.

Id. § 4(c).

I. The Merger closed in October 2023. Tr. at 9:17.

J. Before and after the Merger, SMG and Defendant were parties to a Primary Care Physician Agreement ("PPA") under which Defendant provided healthcare services to patients enrolled in health plans contracted with SMG. *Id.* at

9:18–22. On May 29, 2026, SMG purported to terminate the PPA for cause. *Id.* at 9:23–24. Thereafter, Defendant contracted with Center IPA, another IPA that operates in Southern California, and directed the staff at his clinic to advise his patients not to change their primary care physician but to come to his clinic to consult with an insurance broker to change their insurance plan. *Id.* at 10:11–11:1.

K. On June 15, Plaintiff initiated this action through the filing of a Verified Complaint, alleging a single count for breach of the RCA. Verified Compl., Dkt. 1; Pl.'s Mot. for Expedited Proceedings, Dkt. 2. After a hearing on June 26, the Court entered a temporary restraining order ("TRO") and ordered expedition on Plaintiff's forthcoming motion for preliminary injunction (the "Motion for Preliminary Injunction"), through which Plaintiff sought to enjoin further breaches of the RCA. Dkt. 24. After entry of the TRO, Defendant's business partner, Dr. Lisa Kim, contracted with Center IPA. Tr. at 12:15–16.

L. The Court held a hearing on the Motion for Preliminary Injunction on September 11 and issued the Ruling on September 23. Dkt. 95. The Ruling granted in part and denied in part the Motion for Preliminary Injunction. The Ruling concluded that Plaintiff is likely to succeed in demonstrating that the restrictive covenants in the RCA, which was executed in connection with the sale of a business, are enforceable under Delaware law. Tr. at 15:3–21. In its analysis, the Ruling emphasized that "Defendant was represented by sophisticated counsel when he

agreed to the RCA. He served on SMG's board of directors, and he received tens of millions of dollars in consideration in the [M]erger." *Id.* at 20:1–5.

M. Among other arguments, Defendant asserted that the Noncompete "is unenforceable because it is not reasonably tailored to protect Plaintiff's legitimate interests" because it "improperly restrains Defendant's medical practice to protect a business that does not practice medicine." *Id.* at 20:9–11, 21:11–13. The Ruling disagreed, explaining, in part:

> Ultimately, I am not convinced that the noncompete is untethered to Plaintiff's legitimate economic interests. SMG does not directly care for patients. It receives payment only if there are physicians in its network providing services to covered patients. Plaintiff purchased SMG's network with the reasonable expectation that its business would continue, secured the noncompete to clear the competitive field, and paid handsomely—in tens of millions of dollars to Plaintiff—to do so. Defendant's decision to contract with a competing RBE shifts business to a competitor that otherwise would inure to Plaintiff's benefit. Plaintiff has a legitimate business interest in "safeguard[ing] its investment in [SMG] by ensuring that [Defendant] could not" divert business to a competitor and "cut out" Plaintiff. . . .
>
> Defendant claims that the noncompete improperly restrains his ability to practice medicine, but the noncompete does not prohibit Defendant from providing medical services to patients; it prevents Defendant from contracting with a competing RBE.

Id. at 21:18–22:16 (quoting *Hough Assocs., Inc. v. Hill*, 2007 WL 148751, at *14 (Del. Ch. Jan. 17, 2007)).

N. The Ruling went on to note that "Defendant does not seriously dispute that [his] conduct breached the noncompete, the customer non[-]solicitation

provision, and the enrollee non[-]solicitation provision," and concluded that Plaintiff is likely to succeed in demonstrating that Defendant breached the RCA. *Id.* at 32:21–33:2.

O. Turning to the issue of irreparable harm, the Ruling explained that "Delaware courts frequently find a threat of irreparable injury when restrictive covenants are breached." *Id.* at 34:3–5. The Ruling acknowledged Defendant's argument "that harm to Plaintiff's relationship and goodwill arising from Defendant's breach of the restrictive covenants is easily quantifiable because SMG earns capitation revenue per patient," but explained that the Court "cannot confidently conclude that Plaintiff would not face any irreparable harm, including harm to its reputation, goodwill, and relationships, in the absence of injunctive relief. That said, the capitation compensation structure here makes calculating lost revenue less difficult than in other circumstances." *Id.* at 34:12–35:1. The Ruling concluded that although "Plaintiff faces some irreparable harm in the absence of an injunction, . . . in large part, lost revenue could be calculated." *Id.* at 35:19–22.

P. The Court's resolution of the Motion for Preliminary Injunction therefore "turn[ed] on a balance of the equities." *Id.* at 35:23–36:1. The Ruling explained that the equities support entry of a targeted preliminary injunction:

> At the TRO stage, I expressed reservations about entering a temporary injunction but ultimately placed significant weight on the substantial consideration that Plaintiff received in connection with the [M]erger. That remains an important factor to me now as well. But I also now

> have a better understanding of SMG's business and payment structure, as well as Defendant's practice. I have also carefully considered the evidence and arguments presented that over the past 23 years, Defendant has built a reliable practice serving over a thousand patients in his community. Although Plaintiff contacted patients to offer different Korean-speaking physicians in its network, I cannot determine from the evidence presented whether any of those patients have actually received care. When I balance the interests of patients in freely selecting a care provider of their choice against the modicum of irreparable harm Plaintiff may face in the absence of an injunction, I believe the equities support only a targeted preliminary injunction . . . .

Id. at 36:13–37:10.

Q. The Court declined "to employ equity to enforce th[e] provisions [of the RCA] as they apply to Defendant's patients at the time the PPA was terminated," denying Plaintiff's request to "enjoin Defendant from contracting with Center IPA or another RBE to provide Covered Services to his prior patients" or "soliciting his patients to remain with his practice by joining a new network." *Id.* at 37:13–20. The Court did, however, preliminarily enjoin Defendant "from contracting with Center IPA or another RBE to provide Covered Services to new patients in the Service Area" in breach of Section 4(a) and from other "solicitation efforts" in breach of Sections 3(c) and 4(c) of the RCA. *Id.* at 37:24–38:5, 39:23–40:13.

R. Defendant filed the Application on November 9. Appl., Dkt. 104. Plaintiff opposed the Application on November 19. Pl.'s Opp'n to Def.'s Appl. for Certification of Interlocutory Appeal, Dkt. 109.

NOW, THEREFORE, IT IS HEREBY ORDERED, this 23rd day of November 2026, as follows:

1. Upon review of the Application, the Court concludes that it should be DENIED. Supreme Court Rule 42 governs applications for interlocutory appeals, cautioning that "[i]nterlocutory appeals should be exceptional, not routine, because they disrupt the normal procession of litigation, cause delay, and can threaten to exhaust scarce party and judicial resources." Supr. Ct. R. 42(b)(ii). "Applications for interlocutory review are addressed to the sound discretion of this Court and are accepted only in extraordinary circumstances." *Robino-Bay Ct. Plaza, LLC v. W. Willow-Bay Ct., LLC*, 941 A.2d 1019, at *1 (Del. 2007) (TABLE).[1]

2. Supreme Court Rule 42 establishes a two-step test for deciding whether to certify interlocutory appeal. Supr. Ct. R. 42(b). The Court must first determine whether "the order of the trial court decides a substantial issue of material importance that merits appellate review before a final judgment." *Id.* 42(b)(i). If that requirement is met, the Court will analyze eight factors to assess whether "there are substantial benefits that will outweigh the certain costs that accompany an interlocutory appeal." *Id.* 42(b)(ii).

[1] Though this decision referred to the Supreme Court in its use of "this Court," trial courts exercise that same discretion in recommending whether interlocutory appeals should be certified.

3. The substantial-issue requirement is met when a ruling "decides a main question of law which relates to the merits of the case, and not to collateral matters." *Sprint Nextel Corp. v. iPCS, Inc.*, 2008 WL 2861717, at *1 (Del. Ch. July 22, 2008). Defendant argues that the Ruling decided a substantial issue by determining Plaintiff "has a legitimate economic interest that supports restraining [Defendant]'s medical practice." Appl. ¶ 19. I agree that the enforceability of the restrictive covenants in the RCA goes to the merits of the case and is not collateral. This Court has previously concluded that the enforceability of a restrictive covenant raises a substantial issue. *See Danaher Corp. v. Stumpe*, 2026 WL 1847226, at *4 (Del. Ch. June 26, 2026); *Hub Gp., Inc. v. Knoll*, 2024 WL 3950683, at *3 (Del. Ch. Aug. 27, 2024).

4. I nevertheless conclude that the Application should be denied because the costs of interlocutory appeal outweigh the benefits. Supreme Court Rule 42 identifies eight factors to consider when balancing the costs and benefits of an interlocutory appeal. *See* Supr. Ct. R. 42(b)(iii)(A)–(H). Defendant addresses only three in his Application.

5. First, Defendant argues that the structure of an RBE presents a novel issue. Appl. ¶¶ 28–32. Notwithstanding the business's unusual structure, the Court based its ruling on well-settled principles of law governing enforcement of restrictive covenants. Defendant claims that "[n]o Delaware decision holds that the

buyer of one business may restrain a separate and different business the seller owned before the sale and did not convey." *Id.* ¶ 31. This misdescribes the Ruling, which held that the RCA does not restrain Defendant's "ability to practice medicine" or to "provid[e] medical services to patients; it prevents Defendant from contracting with a competing RBE." Tr. at 22:12–16. This factor does not support certification of an interlocutory appeal.

6. Second, Defendant argues that interlocutory review may terminate the litigation. This factor supports interlocutory review, but "this alone is insufficient to warrant certification of the appeal." *In re Fitbit, Inc. S'holder Deriv. Litig.*, 2019 WL 190933, at *2 (Del. Ch. Jan. 14, 2019) (ORDER).

7. Third, Defendant argues that interlocutory review will serve considerations of justice because Defendant's inability to accept new Medicare Advantage patients through another RBE threatens harm to his medical practice. Appl. ¶ 34. This presents a closer call, but in the absence of other factors supporting interlocutory review, and in view of Rule 42's guidance that interlocutory appeals "should be exceptional, not routine," I do not believe this factor alone supports interlocutory review.

8. Defendant's other arguments do not concern the Rule 42(b)(iii) factors. Instead, the Application asserts that the Ruling was incorrectly decided. Although

those arguments are not relevant to the certification question, three inaccuracies in the Application warrant clarification.

a. The Application asserts that "the Court [e]rroneously [h]eld that Section 3(c) [p]ertains to [p]atients." *Id.* at 7. The Ruling did not hold that Section 3(c) pertains to patients. As both the Ruling and Order make clear, the Court preliminarily enjoined Defendant from "[s]oliciting any client, investor, customer, supplier, payer, Participating Provider, service provider, licensee, licensor or other business relation of any entity in the Buyer Company Group" in violation of Section 3(c) and from "[s]oliciting any Enrollee" in violation of Section 4(c). Order § 1(a), (c); *see* Tr. at 32:8–33:2. The preliminary record—which shows Defendant contracted with a competing RBE, solicited Dr. Kim to do so as well, and directed his staff to advise patients to consult with an insurance broker to change insurance plans—supports a preliminary injunction enforcing both provisions. Tr. at 32:8–33:2.

b. The Application claims that the Ruling "identified no interest that Section 4(c) protects." Appl. ¶ 26. That is incorrect. *See* Tr. at 22:6–10 ("Plaintiff has a legitimate business interest in 'safeguard[ing] its investment in [SMG] by ensuring that [Defendant] could not' divert business to a competitor and 'cut out' Plaintiff." (quoting *Hough Assocs.*, 2007 WL 148751, at *14)).

c. The Application states that the Ruling "strayed beyond the legal and factual questions presented at the preliminary injunction stage" by reaching a "final conclusion[]" that Defendant breached the RCA and Plaintiff may recover damages. Appl. ¶ 36. This is also wrong. The Ruling found only that Plaintiff was likely to succeed on the merits of its claims based on a preliminary record. *See* Tr. at 13:15–17, 15:17–16:3, 24:22–24, 27:14–17, 31:15–19, 33:3–6. The Ruling conveyed that, although the Court declined to enforce certain aspects of the RCA as a matter of equity, Plaintiff could still seek a damages remedy for breach. *Id.* at 35:23–37:23.

9. On balance, I conclude that the likely benefits of interlocutory review do not outweigh the probable costs, such that interlocutory review would not serve the interests of justice.

10. For the foregoing reasons, the Application is DENIED.

/s/ Bonnie W. David

Bonnie W. David
Vice Chancellor