

House Bill 1490

By: Representative Newton of the 127th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 8 of Title 13 of the Official Code of Georgia Annotated,
2 relating to restrictive covenants in contracts, so as to prohibit the enforcement of certain
3 covenants and restrictions on physicians in employment or partnership contracts or
4 agreements; to delineate covenants not to compete which are valid and enforceable; to
5 provide for statutory construction; to provide for adjudication; to provide for an effective
6 date and applicability; to provide for related matters; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 4 of Chapter 8 of Title 13 of the Official Code of Georgia Annotated, relating to
11 restrictive covenants in contracts, is amended by adding a new Code section to read as
12 follows:

13 "13-8-60.

14 (a) Any contract or agreement that creates or establishes the terms of a partnership,
15 employment, or any other form of professional relationship with a physician licensed to
16 practice medicine that includes any restriction of the right of such physician to practice

17 medicine in Georgia shall be void and unenforceable with respect to said restriction.
18 Restrictions rendered void under this subsection shall include, but shall not be limited to:
19 (1) The right to practice medicine in any geographic area for any period of time after the
20 termination of such partnership, employment, or professional relationship;
21 (2) The right of such physician to provide treatment, advise, consult with, or establish
22 a physician/patient relationship with any current patient of the former employer, partner,
23 or healthcare professional/entity; and
24 (3) The right of such physician to solicit or seek to establish a physician/patient
25 relationship with any current patient of the former employer, partner, or healthcare
26 professional/entity.
27 (b) Notwithstanding subsection (a) of this Code section, a covenant not to compete shall
28 be valid and enforceable if:
29 (1) The covenant not to compete is agreed upon during the sale of a business. The
30 person selling the business and the partners, members, or shareholders, and the buyer of
31 the business may agree on a temporary and geographically restricted covenant not to
32 compete that will prohibit the seller of the business from carrying on a similar business
33 within a reasonable geographic area and for a reasonable length of time; or
34 (2) The covenant not to compete is agreed upon in anticipation of the dissolution of a
35 business. The partners, members, or shareholders, upon or in anticipation of a dissolution
36 of a partnership, limited liability company, or corporation, may agree that all or any
37 number of the parties will not carry on a similar business within a reasonable geographic
38 area where the business has been transacted.
39 (c) Nothing in this Code section shall be construed to render void or unenforceable any
40 other provisions in a contract or agreement containing a void and unenforceable covenant
41 not to compete.
42 (d) A provision in an agreement for clinical healthcare services to be rendered by a
43 physician in Georgia is void, unenforceable, and against public policy if the provision:

- 44 (1) Makes the agreement subject to the laws of another state;
45 (2) Requires any litigation or adjudication arising out of the agreement to be conducted
46 in another state; or
47 (3) Deprives the physician of the substantive protection of Georgia law with respect to
48 a controversy arising in Georgia.
- 49 (e) Any provision of a contract or agreement that violates the provisions of this Code
50 section is voidable at any time by the physician, and if a provision is rendered void at the
51 request of the physician, the matter shall be adjudicated in Georgia and Georgia law shall
52 govern the dispute. In addition to injunctive relief and any other remedies available, a
53 court may award a physician who is enforcing rights under this Code section reasonable
54 attorney fees. For purposes of this Code section, adjudication includes litigation and
55 arbitration. This subsection applies only to claims arising under this Code section."

56 **SECTION 2.**

57 This Act shall become effective on July 1, 2024, and shall apply to all contracts and other
58 agreements entered into on or after January 1, 2011.

59 **SECTION 3.**

60 All laws and parts of laws in conflict with this Act are repealed.