



January 28, 2020

HOUSE BILL No. 1115

DIGEST OF HB 1115 (Updated January 28, 2020 10:04 am - DI 128)

Citations Affected: IC 25-22.5.

Synopsis: Physician noncompete agreements. Requires an enforceable physician noncompete agreement to contain the following provisions: (1) A provision that requires the employer of the physician to provide the physician with a copy of any notice: (A) concerning the physician's departure; and (B) sent to any patient seen or treated by the departing physician during the two year period preceding the termination of the physician's employment or expiration of the departing physician's contract, as applicable. (2) A provision that requires the physician's employer to, in good faith, provide current or last known contact and location information to a patient seen or treated by the physician during the two year period preceding the termination of the physician's employment or expiration of the physician's contract. (3) A provision that provides the physician whose employment has terminated or whose contract has expired with the option to purchase a complete and final release from the terms of an enforceable noncompete agreement at a reasonable price. (4) A provision that prohibits medical records from being provided to the physician in a format that differs from the format used to create or store the medical record during the routine and ordinary course of business. Allows the person or entity responsible for copying or transferring a medical record to charge a reasonable fee for the service.

Effective: July 1, 2020.

Morris, VanNatter, Judy

January 8, 2020, read first time and referred to Committee on Public Health.
January 13, 2020, reassigned to Committee on Employment, Labor and Pensions.
January 28, 2020, amended, reported — Do Pass.

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January 28, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1115

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-22.5-5.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]:

4 **Chapter 5.5. Physician Noncompete Agreements**

5 **Sec. 1. This chapter applies to physician noncompete**
6 **agreements originally entered into on or after July 1, 2020.**

7 **Sec. 2. To be enforceable, a physician noncompete agreement**
8 **must include all of the following provisions:**

9 **(1) A provision that requires the employer of the physician to**
10 **provide the physician with a copy of any notice that:**

11 **(A) concerns the physician's departure from the employer;**
12 **and**

13 **(B) was sent to any patient seen or treated by the physician**
14 **during the two (2) year period preceding the termination**
15 **of the physician's employment or the expiration of the**
16 **physician's contract. Provided, however, the patient names**
17 **and contact information be redacted from the copy of the**

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- 1 notice provided from the employer of the physician to the
- 2 physician.
- 3 (2) A provision that requires the physician's employer to, in
- 4 good faith, provide the physician's last known or current
- 5 contact and location information to a patient who:
- 6 (A) requests updated contact and location information for
- 7 the physician; and
- 8 (B) was seen or treated by the physician during the two (2)
- 9 year period preceding the termination of the physician's
- 10 employment or the expiration of the physician's contract.
- 11 (3) A provision that provides the physician with:
- 12 (A) access to; or
- 13 (B) copies of;
- 14 any medical record associated with a patient described in
- 15 subdivision (1) or (2) upon receipt of the patient's consent.
- 16 (4) A provision that provides the physician whose employment
- 17 has terminated or whose contract has expired with the option
- 18 to purchase a complete and final release from the terms of the
- 19 enforceable physician noncompete agreement at a reasonable
- 20 price. However, in the event the physician elects not to
- 21 exercise the purchase option, then the option to purchase
- 22 provision may not be used in any manner to restrict, bar, or
- 23 otherwise limit the employer's equitable remedies, including
- 24 the employer's enforcement of the physician noncompete
- 25 agreement.
- 26 (5) A provision that prohibits the providing of patient medical
- 27 records to a requesting physician in a format that materially
- 28 differs from the format used to create or store the medical
- 29 record during the routine or ordinary course of business,
- 30 unless a different format is mutually agreed upon by the
- 31 parties. Paper or portable document format copies of the
- 32 medical records satisfy the formatting provisions of this
- 33 chapter.
- 34 Sec. 3. A person or entity required to create, copy, or transfer
- 35 a patient medical record for a reason specified in this chapter may
- 36 charge a reasonable fee for the service as permitted under
- 37 applicable state or federal law.
- 38 Sec. 4. Nothing in this chapter shall be construed to prohibit,
- 39 limit, impair, or abrogate:
- 40 (1) the ability of the parties to negotiate any other term not
- 41 specified under this chapter; or
- 42 (2) any other right, remedy, or relief permitted by law or in



1 equity.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1115, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, after "agreements" insert "**originally**".

Page 1, line 16, after "contract." insert "**Provided, however, the patient names and contact information be redacted from the copy of the notice provided from the employer of the physician to the physician.**".

Page 1, line 17, delete "to" and insert "**to, in good faith,**".

Page 2, line 1, after "physician's" insert "**last known or**".

Page 2, line 17, delete "price that is:" and insert "**price. However, in the event the physician elects not to exercise the purchase option, then the option to purchase provision may not be used in any manner to restrict, bar, or otherwise limit the employer's equitable remedies, including the employer's enforcement of the physician noncompete agreement.**".

Page 2, delete lines 18 through 32.

Page 2, line 33, delete "(6)" and insert "**(5)**".

Page 2, line 34, after "that" insert "**materially**".

Page 2, line 37, after "parties." insert "**Paper or portable document format copies of the medical records satisfy the formatting provisions of this chapter.**".

Page 3, line 4, delete "law." and insert "**law or in equity.**".

and when so amended that said bill do pass.

(Reference is to HB 1115 as introduced.)

VANNATTER

Committee Vote: yeas 9, nays 0.

