

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 126

**Senator Johnson
Cosponsors: Senators Hoagland, Sykes**

A BILL

To enact section 3727.62 of the Revised Code 1
regarding the use of noncompete provisions in 2
certain health care professional employment 3
contracts with nonprofit hospitals. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3727.62 of the Revised Code be 5
enacted to read as follows: 6

Sec. 3727.62. (A) As used in this section: 7

(1) "Advanced practice registered nurse" has the same 8
meaning as in section 4723.01 of the Revised Code. 9

(2) "Health care professional employee" means a physician, 10
physician assistant, or advanced practice registered nurse 11
employed by a nonprofit hospital. "Health care professional 12
employee" does not include a management employee employed by a 13
nonprofit hospital. 14

(3) "Management employee" means an employee who formulates 15
policy on behalf of a nonprofit hospital, who directs the 16
implementation of policy, or who may be reasonably required on 17

behalf of the hospital to have a major role in personnel 18
administration. 19

(4) "Nonprofit hospital" means a hospital, as defined in 20
section 3722.01 of the Revised Code, no part of the net earnings 21
of which inures, or may lawfully inure, to the benefit of any 22
private shareholder or individual. 23

(5) "Physician" means an individual authorized under 24
Chapter 4731. of the Revised Code to practice medicine and 25
surgery, osteopathic medicine and surgery, or podiatric medicine 26
and surgery. 27

(6) "Physician assistant" means an individual who is 28
licensed under Chapter 4730. of the Revised Code. 29

(B)(1) Except as provided in division (B)(2) of this 30
section, no nonprofit hospital shall require a health care 31
professional employee or prospective health care professional 32
employee, as a condition of employment with the hospital, to 33
agree that, at the conclusion of the employment with the 34
hospital, the employee will refrain from obtaining employment in 35
a specified geographic area, for a specified period of time, 36
with a particular employer, or in a particular industry or 37
practice specialty. 38

(2) A nonprofit hospital may require a health care 39
professional employee or prospective health care professional 40
employee, as a condition of employment with the hospital, to 41
agree that, at the conclusion of the employment with the 42
hospital, the employee will refrain, for a period not to exceed 43
six months, from obtaining employment within a radius of fifteen 44
miles of the physical location where the employee was employed 45
with the hospital. To implement this requirement, the hospital 46

shall identify in the employee's employment contract with the 47
hospital one specific physical address from which the fifteen- 48
mile radius will be measured. 49

(C) Division (B) of this section does not prohibit a 50
nonprofit hospital from requiring a health care professional 51
employee or prospective health care professional employee, as a 52
condition of employment with the hospital, to agree that, during 53
the term of the employee's employment contract with the 54
hospital, the employee will refrain from obtaining employment in 55
a specified geographic area, for a specified period of time, 56
with a particular employer, or in a particular industry or 57
practice specialty. 58

(D) An agreement by a health care professional employee to 59
waive the employee's rights under division (B) of this section 60
is void and unenforceable. 61

(E) If a health care professional employee or prospective 62
health care professional employee believes that a nonprofit 63
hospital has violated division (B) of this section, the employee 64
or prospective employee may bring a civil action against the 65
hospital in a court of competent jurisdiction. A nonprofit 66
hospital that violates division (B) of this section is liable to 67
a health care professional employee or prospective health care 68
professional employee for damages and attorney's fees and costs. 69