

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1633 Session of 2023

INTRODUCED BY FRANKEL, VENKAT, HILL-EVANS, MADDEN, DELLOSO, PISCIOTTANO, SANCHEZ, KEEFER, FIEDLER, CIRESI, KRAJEWSKI, FREEMAN, SHUSTERMAN, MALAGARI, N. NELSON, KHAN, INNAMORATO AND D. WILLIAMS, AUGUST 29, 2023

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 27, 2024

AN ACT

1 Prohibiting the enforcement of certain noncompete covenants
2 entered into by health care practitioners and employers.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Fair
7 Contracting for Health Care Practitioners Act.

8 Section 2. Legislative intent.

9 The General Assembly finds and declares as follows:

10 (1) Patient access to health care in this Commonwealth
11 often depends on geography, transportation and availability
12 of practitioners.

13 (2) Seventy-five percent of physicians are employed by
14 hospitals, health care systems or corporate entities.

15 (3) Consolidated hospital systems increasingly stretch
16 over broad geographic regions, meaning that a hospital

1 network's noncompete clause can prevent health care
2 practitioners from practicing in large areas of this
3 Commonwealth, well beyond their initial employment location.

4 (4) Noncompete covenants in health care inhibit
5 competition that benefits employees and patients and can
6 deter needed health care practitioners from wanting to
7 practice in Pennsylvania.

8 (5) Providers constrained by noncompete covenants have
9 less freedom of practice for fear of losing employment and
10 being unable to work in their profession.

11 (6) Most rural areas of Pennsylvania can be considered
12 health care deserts in which patients must travel two or
13 three hours for their basic health care needs.

14 (7) Continuity of care is a fundamental public policy
15 goal that can help patients achieve their health care goals
16 and build trust with their health care practitioners.

17 (8) This Commonwealth cannot afford to continue losing
18 health care practitioners to surrounding states and must do
19 more to attract and retain them.

20 Section 3. Definitions.

21 The following words and phrases when used in this act shall
22 have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Employer." A person or group of persons that employ a
25 health care practitioner at a ~~primary~~ health care facility or <--
26 office.

27 "Health care practitioner." As defined in section 103 of the
28 act of July 19, 1979 (P.L.130, No.48), known as the Health Care
29 Facilities Act. THE TERM INCLUDES A LICENSED PRACTICAL NURSE. <--

30 "Noncompete covenant." An agreement that is entered into

1 between an employer and a health care practitioner in this
2 Commonwealth and is designed to impede the ability of the health
3 care practitioner to work independently or for a competing
4 employer.

5 "Patient." An individual to whom a health care practitioner
6 rendered professional services in the health care practitioner's
7 scope of practice for which compensation has been received by
8 the health care practitioner, regardless of the source of the
9 compensation.

10 "PRIMARY HEALTH CARE FACILITY OR OFFICE." THE OFFICE, <--
11 FACILITY OR LOCATION WHERE A MAJORITY OF THE REVENUE DERIVED
12 FROM A HEALTH CARE PRACTITIONER'S SERVICES ARE GENERATED.

13 Section 4. Noncompete covenants.

14 (a) Enforceability.--EXCEPT AS PROVIDED UNDER SUBSECTION <--
15 (B), THE FOLLOWING SHALL APPLY:

16 (1) A noncompete covenant entered into or amended on or
17 after the effective date of this section is deemed contrary
18 to public policy and is void and unenforceable by an
19 employer.

20 (2) A noncompete covenant entered into or amended prior
21 to the effective date of this section is void and
22 unenforceable upon the renewal of a health care
23 practitioner's license, registration or certification within
24 this Commonwealth, ~~whichever occurs first.~~ <--

25 (B) EXCEPTION.--AN EMPLOYER MAY ENFORCE A NONCOMPETE <--
26 COVENANT IF ALL OF THE FOLLOWING APPLY:

27 (1) THE PRIMARY HEALTH CARE FACILITY OR OFFICE WHERE THE
28 HEALTH CARE PRACTITIONER IS EMPLOYED IS LOCATED IN A COUNTY
29 OF THE SIXTH, SEVENTH OR EIGHTH CLASS.

30 (2) THE GEOGRAPHIC RESTRICTION IS LESS THAN A 45-MILE

1 RADIUS FROM THE PRIMARY HEALTH CARE FACILITY OR OFFICE.

2 (3) THE LENGTH OF THE NONCOMPETE COVENANT IS NO MORE
3 THAN TWO YEARS.

4 ~~(b)~~ (C) Construction.--Nothing in this section shall be <--
5 construed to prohibit the enforcement of a contract provision
6 ~~entered into prior to the effective date of this section that~~ <--
7 allows an employer to recover REASONABLE expenses from a health <--
8 care practitioner, if the expenses are:

9 (1) Directly attributable to the health care
10 practitioner and accrued within the three years prior to
11 separation, unless separation is caused by dismissal of the
12 health care practitioner.

13 (2) Related to relocation, training and establishment of
14 a patient base.

15 (3) Amortized over a period of up to five years from the
16 date of separation by the health care practitioner.

17 Section 5. Notification.

18 (a) Patient notification.--Following the departure of a
19 health care practitioner from an employer, the employer shall
20 notify the health care practitioner's patients SEEN WITHIN THE <--
21 PAST YEAR of the following:

22 (1) Where the health care practitioner will be rendering
23 services in the future, IF KNOWN. <--

24 (2) How the patient may:

25 (i) continue as a patient of the health care
26 practitioner; or

27 (ii) be assigned a new health care practitioner
28 within the existing employer.

29 (b) Time period.--The employer shall provide the notice
30 within 90 days of the health care practitioner's departure.

1 (C) APPLICABILITY.--THE NOTIFICATION REQUIREMENT SHALL APPLY <--
2 TO A PHYSICIAN, CERTIFIED REGISTERED NURSE PRACTITIONER OR
3 PHYSICIAN ASSISTANT WITH AN ONGOING OUTPATIENT RELATIONSHIP WITH
4 THE PATIENT.

5 Section 6. Effective date.

6 This act shall take effect as follows:

7 (1) This section and section 4 shall take effect
8 immediately.

9 (2) The remainder of this act shall take effect in 30
10 days.