



2021 South Dakota Legislature  
**House Bill 1154**  
**ENROLLED**

AN ACT

**ENTITLED An Act to prohibit employment contracts restricting competitive health care practices.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

**Section 1.** That § 53-9-11 be AMENDED.

**53-9-11. Employment contract--Limitation on competition.**

Except as otherwise provided in § 53-9-11.1, an employee may agree with an employer at the time of employment or at any time during employment not to engage directly or indirectly in the same business or profession as that of the employer for any period not exceeding two years from the date of termination of the agreement and not to solicit existing customers of the employer within a specified county, first- or second-class municipality, or other specified area for any period not exceeding two years from the date of termination of the agreement, if the employer continues to carry on a like business therein.

**Section 2.** That a NEW SECTION be added:

**53-9-11.1. Health care provider--Contract to restrict practice--Prohibition--Exception.**

A contract that creates or establishes the terms of employment, a partnership, or any other form of professional relationship, with a health care provider, may not restrict the right of the health care provider to:

- (1) Practice or provide services for which the provider is licensed, in any geographic area and for any period of time, after the termination of the employment, partnership, or other form of professional relationship;
- (2) Treat, advise, consult with, or establish a provider-patient relationship with any current patient of the employer, or with a patient affiliated with a partnership or other form of professional relationship; or

- (3) Solicit or seek to establish a provider-patient relationship with any current patient of the employer, or with a patient affiliated with a partnership or other form of professional relationship.

The prohibition of this section does not apply to a contract in connection with the sale and purchase of a practice.

For purposes of this section, a health care provider means:

- (1) A physician licensed in accordance with chapter 36-4;
- (2) A physician assistant licensed in accordance with chapter 36-4A;
- (3) A certified nurse practitioner licensed in accordance with chapter 36-9A;
- (4) A certified nurse midwife licensed in accordance with chapter 36-9A;
- (5) A certified registered nurse anesthetist authorized to practice in accordance with § 36-9-3.1;
- (6) A registered nurse authorized to practice in accordance with § 36-9-3; and
- (7) A licensed practical nurse authorized to practice in accordance with § 36-9-4.

An Act to prohibit employment contracts restricting competitive health care practices.

I certify that the attached Act originated in the:  
House as Bill No. 1154

Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_, 2021 at \_\_\_\_\_ M.

\_\_\_\_\_  
Chief Clerk

By \_\_\_\_\_ for the Governor

\_\_\_\_\_  
Speaker of the House

The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2021

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
President of the Senate

Attest:

Filed \_\_\_\_\_, 2021 at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Secretary of State

House Bill No. 1154  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State