

1                                   A bill to be entitled  
 2           An act relating to invalid restrictive covenants in  
 3           health care; amending s. 542.336, F.S.; defining the  
 4           terms "hospital" and "physician"; specifying that  
 5           certain restrictive covenants in employment agreements  
 6           between physicians and hospitals do not support a  
 7           legitimate business interest; authorizing a party to  
 8           an employment agreement to elect to have a mutually  
 9           agreed upon arbitrator make a specified binding  
 10          determination; providing a legislative finding;  
 11          providing applicability; providing an effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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 15           Section 1. Section 542.336, Florida Statutes, is amended  
 16          to read:

17           542.336 Invalid restrictive covenants.—

18           (1) As used in this section, the term:

19           (a) "Hospital" means a hospital as defined in s.  
 20 395.002(13) which is licensed under chapter 395 and part II of  
 21 chapter 408.

22           (b) "Physician" means a person licensed to practice  
 23 medicine under chapter 458 or osteopathic medicine under chapter  
 24 459.

25           (2) A restrictive covenant entered into with a physician

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26 | ~~who is licensed under chapter 458 or chapter 459 and who~~  
27 | practices a medical specialty in a county wherein one entity  
28 | employs or contracts with, either directly or through related or  
29 | affiliated entities, all physicians who practice such specialty  
30 | in that county is not supported by a legitimate business  
31 | interest. The Legislature finds that such covenants restrict  
32 | patient access to physicians, increase costs, and are void and  
33 | unenforceable under current law. Such restrictive covenants  
34 | ~~shall~~ remain void and unenforceable for 3 years after the date  
35 | on which a second entity that employs or contracts with, either  
36 | directly or through related or affiliated entities, one or more  
37 | physicians who practice such specialty begins offering such  
38 | specialty services in that county.

39 |       (3) A restrictive covenant in an employment agreement  
40 | between a physician and a hospital is not supported by a  
41 | legitimate business interest if it does not include an option  
42 | for the physician to buy out of the restrictive covenant at a  
43 | reasonable price. Any party to an employment agreement which  
44 | believes that the price to buy out of the restrictive covenant  
45 | in the agreement is unreasonable may elect to have a mutually  
46 | agreed upon arbitrator determine a reasonable price, and such  
47 | arbitrator's decision is binding on the parties. The Legislature  
48 | finds that a restrictive covenant without this option limits  
49 | patient access to physicians and increases costs and is void and  
50 | unenforceable. This subsection applies to restrictive covenants

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51 | entered into on or after July 1, 2022.

52 |       Section 2. This act shall take effect July 1, 2022.