

By Senator Brodeur

9-00540-22

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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.

12  
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 to  
16           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  
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

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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  
51 entered into on or after July 1, 2022.

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