

By the Committee on Health Policy; and Senator Brodeur

588-02342-22

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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; providing a legislative
8 finding; providing applicability; providing an
9 effective date.

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

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13 Section 1. Section 542.336, Florida Statutes, is amended to
14 read:

15 542.336 Invalid restrictive covenants.—

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

17 (a) "Hospital" means a hospital as defined in s.
18 395.002(13) which is licensed under chapter 395 and part II of
19 chapter 408.

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

23 (2) A restrictive covenant entered into with a physician
24 who is licensed under chapter 458 or chapter 459 and who
25 practices a medical specialty in a county wherein one entity
26 employs or contracts with, either directly or through related or
27 affiliated entities, all physicians who practice such specialty
28 in that county is not supported by a legitimate business
29 interest. The Legislature finds that such covenants restrict

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30 patient access to physicians, increase costs, and are void and
31 unenforceable under current law. Such restrictive covenants
32 ~~shall~~ remain void and unenforceable for 3 years after the date
33 on which a second entity that employs or contracts with, either
34 directly or through related or affiliated entities, one or more
35 physicians who practice such specialty begins offering such
36 specialty services in that county.

37 (3) A restrictive covenant in an employment agreement
38 between a physician and a hospital is not supported by a
39 legitimate business interest if it does not include an option
40 for the physician to buy out of the restrictive covenant. The
41 Legislature finds that a restrictive covenant without this
42 option limits patient access to physicians and increases costs
43 and is void and unenforceable. This subsection applies to
44 restrictive covenants entered into on or after July 1, 2022.

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