

By Senator Brodeur

10-00345B-23

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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.; specifying
4 that certain restrictive covenants in employment
5 agreements relating to certain licensed physicians do
6 not support a legitimate business interest; specifying
7 such restrictive covenants are void and unenforceable;
8 providing applicability; defining the term
9 "compensation"; providing an 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) A restrictive covenant entered into with a physician
17 who is licensed under chapter 458 or chapter 459 and who
18 practices a medical specialty in a county wherein one entity
19 employs or contracts with, either directly or through related or
20 affiliated entities, all physicians who practice such specialty
21 in that county is not supported by a legitimate business
22 interest. The Legislature finds that such covenants restrict
23 patient access to physicians, increase costs, and are void and
24 unenforceable under current law. Such restrictive covenants
25 shall remain void and unenforceable for 3 years after the date
26 on which a second entity that employs or contracts with, either
27 directly or through related or affiliated entities, one or more
28 physicians who practice such specialty begins offering such
29 specialty services in that county.

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30 (2) A restrictive covenant entered into with a physician
31 who is licensed under chapter 458 or chapter 459 which restricts
32 the physician from practicing medicine in any geographic area
33 for any period of time after the termination of a contract,
34 partnership, employment, or professional relationship is not
35 supported by a legitimate business interest. Such restrictive
36 covenants are void and unenforceable.

37 (a) This subsection does not apply to any of the following
38 restrictive covenants:

39 1. Related to any research conducted by the physician under
40 the terms of a contract or in furtherance of a partnership,
41 employment, or professional relationship; provided, however,
42 that the covenant does not impair the continuing care and
43 treatment of a specific patient or patients whose care and
44 treatment were part of the research.

45 2. Related to physicians, other than primary care
46 physicians or pediatricians, whose compensation is at least
47 \$250,000 per year. As used in this subparagraph, the term
48 "compensation" means:

49 a. For an employed physician, the amount of wages or salary
50 paid to the physician for the previous tax year or expected to
51 be paid for the current tax year; or

52 b. For a physician with a partnership or similar ownership
53 interest in the profits of a practice, the amount of business
54 income attributed to the physician for the previous tax year or
55 expected to be attributed to the physician for the current tax
56 year.

57 (b) This subsection applies to restrictive covenants
58 entered into on or after July 1, 2023.

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Section 2. This act shall take effect July 1, 2023.