

By Senator Brodeur

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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 are  
6       not supported by a legitimate business interest;  
7       specifying that such restrictive covenants are void  
8       and unenforceable; providing applicability; defining  
9       the term "compensation"; providing an effective date.

10  
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, independent contractor arrangement, or  
35 professional relationship is not supported by a legitimate  
36 business interest. Such restrictive covenants are void and  
37 unenforceable.

38       (a) This subsection does not apply to a restrictive  
39 covenant that is:

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

46       2. Related to physicians whose individual compensation  
47 totals at least \$160,000 per year. As used in this subparagraph,  
48 the term "compensation" means:

49       a. For an employed physician, the amount of wages, bonuses,  
50 benefits, and salary paid to the physician for the previous tax  
51 year or expected to 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       3. Related to physicians who have an ownership interest in  
58 a practice, or an affiliated entity of a practice, such as a

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59 management services organization or subsidiary, or such  
60 physicians who have sold or otherwise transferred an ownership  
61 interest in a practice.

62 (b) This subsection applies to restrictive covenants  
63 entered into on or after July 1, 2024.

64 Section 2. This act shall take effect July 1, 2024.