

By the Committees on Commerce and Tourism; and Health Policy;
and 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:

12
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 \$250,000 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. For a physician who has any ownership interest in a
58 medical business, practice, management services organization, or

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59 entity of any kind and who sells:

60 a. The goodwill of such business, practice, management
61 services organization, or entity;

62 b. Any or all of his or her ownership interest in such
63 business, practice, management services organization, or entity;

64 or

65 c. Any or all portions of the assets of such business,
66 practice, management services organization, or entity together
67 with its goodwill and who contractually agrees with a buyer of
68 such business, practice, management services organization, or
69 entity, or portion thereof, to refrain from carrying on a
70 competing business, practice, management services organization,
71 or entity within a specified geographic area reasonably
72 necessary to protect the legitimate business interest of the
73 acquiring party or the acquired business, practice, management
74 services organization, or entity.

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

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