

Pennsylvania Bans Most Non-Compete Agreements for Healthcare Practitioners

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Pennsylvania Governor Josh Shapiro has signed the “Fair Contracting for Health Care Practitioners Act” (House Bill 1633), which restricts the ability of employers and healthcare practitioners to enter into non-compete agreements. The Act goes into effect on Jan. 1, 2025.

The Act represents a significant shift in the employment landscape for healthcare practitioners in Pennsylvania and is part of a growing trend of greater scrutiny of restrictive covenants, especially in the healthcare industry.

Key Provisions

Aiming to retain and attract healthcare talent, improve patient access and care, and foster a more competitive healthcare market, the Act makes void and unenforceable any non-competition covenant that “has the effect of impeding” certain healthcare practitioners’ ability to treat or accept new patients. Practitioners covered by the Act include physicians, osteopaths, certified registered nurse anesthetists, certified registered nurse practitioners, and physician assistants.

However, non-compete covenants that do not exceed one year in length remain enforceable when the healthcare practitioner voluntarily terminates employment. But such non-competes are unenforceable if an employer involuntarily dismisses a practitioner for any reason. There is no apparent exception for terminations for cause.

The Act also provides that:

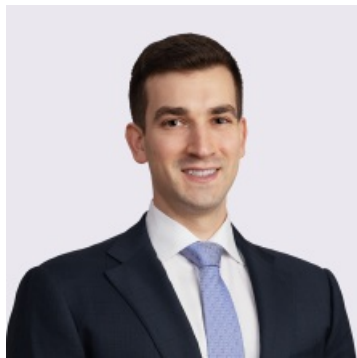
- Employers can enforce contract provisions to recover reasonable expenses related to relocation, training, and establishing a patient base that are “directly attributable” to a practitioner if the employer accrued these expenses within three years prior to separation, and the practitioner voluntarily departed.
- Non-compete covenants tied to the sale or transfer of a business entity remain enforceable if the healthcare practitioner is a party to the transaction.

To ensure continuity of care between patients and providers, the Act requires employers to notify patients of a departing healthcare practitioner within 90 days if the practitioner has had an ongoing outpatient relationship with the patient for at least two years. The notice must state that (1) the practitioner has departed, (2) explain how the patient may transfer the patient’s health records if the patient chooses to receive care from another provider, and (3) explain that the patient may be assigned to a new practitioner within the existing employer if the patient chooses to continue receiving care from the employer.

Legislative Background

House Bill 1633, introduced by Rep. Dan Frankel (D-Pittsburgh), initially sought a

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complete ban on non-compete agreements for healthcare workers. The stated aim was improving patient care and addressing rural healthcare challenges. Legislative negotiations resulted in a partial but still significant bar on the use of non-compete agreements.

National Trend

Passage of the Act aligns Pennsylvania with a broader national trend toward prohibiting or limiting non-compete agreements, particularly relating to healthcare providers. Approximately a dozen states have enacted outright prohibitions or limitations on healthcare provider non-competition agreements in the last few years. Further, even if the Federal Trade Commission's (FTC's) rule banning non-competes survives legal challenges and becomes effective, the FTC does not have authority over not-for-profit entities — like many hospital systems. Therefore, state laws like the new Pennsylvania Act serve to address this potential gap in the FTC's authority.

Any non-compete entered into before the Act's effective date would not be subject to its provisions. Accordingly, employers and healthcare practitioners should be cognizant of existing obligations that are unaffected by the Act.

We will continue to monitor the impact of the Act in 2025.

Jackson Lewis attorneys are available to discuss the new law and to assist with reviewing and revising restrictive covenant agreements.

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