



ALLEGHENY COUNTY MEDICAL SOCIETY

PA House Passes [H.B. 1633](#) to Bar Noncompete Agreements in Health Care Employment - Bill Moves to the State Senate for Consideration

The PA House passed legislation on Wednesday, April 17th, introduced by state Reps. Dan Frankel and Arvind Venkat, MD (ACMS/PAMED member), that would prohibit medical employers from using restrictive noncompete agreements that prevent doctors, nurses, and other medical professionals who leave a job from practicing elsewhere. [[Read More](#)].

The ACMS applauds the work of Rep. Frankel, Dr. Venkat, and the PAMED legislative team for their work on this legislation. This legislation aims to remove barriers to patient care on many different levels. In one direction, physicians would be given employment autonomy, which creates more job satisfaction. In the other direction, in the simplest of terms, it would allow patients access to the doctors, and care, of their choice.

It should be noted that this bill passed with significant bipartisan support, with a vote of 150-50. It will now move to the State Senate for consideration. This issue will continue to need physician voices and support as it moves to the PA Senate. We urge you to [reach out to your local](#) elected officials on this issue. When the times come for specific action, we will be sure to let our membership know when and how to do so.

Rep. Venkat, who serves as the only Physician legislator in Pennsylvania, spoke from the House floor in support of this legislation. [Click here](#) to watch the video of him speaking on this issue.

PAMED noted that over 700 members reached out to their legislators regarding this issue. This is a great opportunity to remind your colleagues of the importance of organized medicine. There is strength in numbers. If you are feeling inspired by this recent legislation, consider making a donation or engaging with [PAMPAC](#), the political arm of the Pennsylvania Medical Society.

Please reach out with questions, comments, or to request additional information.

Sincerely,

Sara C. Hussey, MBA, CAE

ACMS Executive Director



THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1633 Session of
2023

INTRODUCED BY FRANKEL, VENKAT, HILL-EVANS, MADDEN, DELLOSO,
PISCIOTTANO, SANCHEZ, KEEFER, FIEDLER, CIRESI, KRAJEWSKI,
FREEMAN, SHUSTERMAN, MALAGARI, N. NELSON, KHAN, INNAMORATO,
D. WILLIAMS, WEBSTER, HOWARD, O'MARA, BOROWSKI AND SAMUELSON,
AUGUST 29, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 16, 2024

AN ACT

Prohibiting the enforcement of certain noncompete covenants
entered into by health care practitioners and employers.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Fair
Contracting for Health Care Practitioners Act.

Section 2. Legislative intent.

The General Assembly finds and declares as follows:

(1) Patient access to health care in this Commonwealth
often depends on geography, transportation and availability
of practitioners.

(2) Seventy-five percent of physicians are employed by
hospitals, health care systems or corporate entities.

(3) Consolidated hospital systems increasingly stretch
over broad geographic regions, meaning that a hospital

network's noncompete clause can prevent health care practitioners from practicing in large areas of this Commonwealth, well beyond their initial employment location.

(4) Noncompete covenants in health care inhibit competition that benefits employees and patients and can deter needed health care practitioners from wanting to practice in Pennsylvania.

(5) Providers constrained by noncompete covenants have less freedom of practice for fear of losing employment and being unable to work in their profession.

(6) Most rural areas of Pennsylvania can be considered health care deserts in which patients must travel two or three hours for their basic health care needs.

(7) Continuity of care is a fundamental public policy goal that can help patients achieve their health care goals and build trust with their health care practitioners.

(8) This Commonwealth cannot afford to continue losing health care practitioners to surrounding states and must do more to attract and retain them.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Employer." A person or group of persons that employ a health care practitioner at a health care facility or office.

"Health care practitioner." As defined in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act. The term includes a licensed practical nurse.

"Noncompete covenant." An agreement that is entered into

between an employer and a health care practitioner in this Commonwealth and is designed to impede the ability of the health care practitioner to ~~work independently or for a competing employer~~ PRACTICE INDEPENDENTLY OR IN THE EMPLOYMENT OF A COMPETING EMPLOYER AFTER THE TERM OF EMPLOYMENT.

"Patient." An individual to whom a health care practitioner rendered professional services in the health care practitioner's scope of practice for which compensation has been received by the health care practitioner, regardless of the source of the compensation.

"Primary health care facility or office." The office, facility or location where a majority of the revenue derived from a health care practitioner's services are generated.

Section 4. Noncompete covenants.

(a) Enforceability.--Except as provided under subsection (b), the following shall apply:

(1) A noncompete covenant entered into or amended on or after the effective date of this section is deemed contrary to public policy and is void and unenforceable by an employer.

(2) A noncompete covenant entered into or amended prior to the effective date of this section is void and unenforceable upon the renewal of a health care practitioner's license, registration or certification within this Commonwealth.

(b) Exception.--An employer may enforce a noncompete covenant if all of the following apply:

(1) The primary health care facility or office where the health care practitioner is employed is located in a county

of the sixth, seventh or eighth class.

(2) The geographic restriction is less than a 45-mile radius from the primary health care facility or office.

(3) The length of the noncompete covenant is no more than two years.

(c) Construction.--Nothing in this section shall be construed to prohibit the enforcement of a contract provision that allows an employer to recover reasonable expenses from a health care practitioner, if the expenses are:

(1) Directly attributable to the health care practitioner and accrued within the three years prior to separation, unless separation is caused by dismissal of the health care practitioner.

(2) Related to relocation, training and establishment of a patient base.

(3) Amortized over a period of up to five years from the date of separation by the health care practitioner.

Section 5. Notification.

(a) Patient notification.--Following the departure of a health care practitioner from an employer, the employer shall notify the health care practitioner's patients seen within the past year of the following:

(1) Where the health care practitioner will be rendering services in the future, if known.

(2) How the patient may:

(i) continue as a patient of the health care practitioner; or

(ii) be assigned a new health care practitioner within the existing employer.

(b) Time period.--The employer shall provide the notice within 90 days of the health care practitioner's departure.

(c) Applicability.--The notification requirement shall apply to a physician, certified registered nurse practitioner or physician assistant with an ongoing outpatient relationship with the patient.

Section 6. Effective date.

This act shall take effect as follows:

~~(1) This section and section 4 shall take effect immediately.~~

~~(2) The remainder of this act shall take effect in 30 days.~~

(1) SECTION 5 SHALL TAKE EFFECT IN 30 DAYS.

(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.