

# Pennsylvania Limits Noncompete Agreements for Health Care Practitioners

## WRITTEN BY

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On July 17, Pennsylvania Governor Josh Shapiro signed House Bill (HB) 1633, the Fair Contracting for Health Care Practitioners Act (the Act) into law. At a high level, the Act: (1) limits the enforceability of noncompetes against certain health care practitioners; and (2) imposes a notice obligation on employers of those practitioners.

### Limits on Noncompetes

The Act renders unenforceable noncompete covenants with a duration longer than one year for certain health care practitioners, subject to the following caveats:

- The Act only applies to “health care practitioners,” which the Act defines to include “medical doctors,” “doctors of osteopathy,” “certified registered nurse anesthetists,” “certified registered nurse practitioners,” and “physician assistants,” as those terms are defined in other Pennsylvania statutes.
- The Act only applies to “noncompete covenants,” defined as agreements between an employer and a health care practitioner that “has the effect of impeding the ability of the health care practitioner to continue treating patients or accepting patients.” Notably, the Act does not apply to other post-employment restrictive covenants, such as confidentiality provisions and employee nonsolicits.
- The Act does not prohibit employers from enforcing noncompetes with a duration of one year or less, provided that the employer did not involuntarily terminate the health care practitioner’s employment. This means that employers cannot enforce a noncompete against health care practitioners who are involuntarily terminated, regardless of the duration of the covenant.
- The Act is silent as to whether Pennsylvania courts may reform overbroad noncompetes. Presumably, that decision is still within the discretion of the court.
- The Act does not apply to noncompetes entered into in connection with the sale of a business or grant of equity, provided the health care practitioner was a party to the transaction. To illustrate:
  - **Example 1 – The Act Does Not Apply, Allowing Enforcement of the Noncompete:** Employer purchases Dr. A’s practice. As part of the purchase agreement, Dr. A agrees to a two-year noncompete in exchange for selling his ownership interest in the practice. Dr. A later leaves and starts a competing practice in violation of

the noncompete. Here, the Act does not bar Employer from enforcing the noncompete because the transaction involved the transfer of equity and Dr. A was a party to the transaction.

- **Example 2 – The Act Applies, Barring Enforcement of the Noncompete:** Employer purchases the practice from Dr. A. Dr. B was an employee of Dr. A prior to the sale and did not have an ownership interest in the practice. As part of the transaction, Employer and Dr. B enter into an employment agreement containing a two-year noncompete provision. Dr. B later leaves and starts a competing practice in violation of the noncompete. Here, the Act bars Employer from enforcing the two-year provision because Dr. B was not a party to the transaction.
- The Act becomes effective on January 1, 2025. Importantly, it does not apply retroactively. That means that noncompete agreements entered into with health care practitioners prior to the effective date will remain enforceable, subject to existing requirements under Pennsylvania law.

### **Notification Requirement**

The Act also imposes a patient notice requirement on employers of health care practitioners. Within 90 days of a health care practitioner's termination of employment, employers must notify the separated practitioner's patients: (1) of the practitioner's departure; (2) if the patient chooses to receive care from the departed health care practitioner or another health care practitioner, how the patient may transfer the patient's health records to that provider; and (3) that the patient may be reassigned to another practitioner in the employ of the employer if the patient wants to continue treatment with the employer. Importantly, this notification obligation applies regardless of whether the separated practitioner is subject to a noncompete.

Pennsylvania employers of health care practitioners should review their restrictive covenant agreements and put processes in place to comply with their notice obligations under the Act. Please contact [Troutman Pepper's Labor + Employment team](#) if you have specific questions concerning your workplace and employees.

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