

December 10, 2023

Health Committee
The Ohio State Senate
1 Capitol Square
Columbus, Ohio 43215

Dear Health Committee,

I am writing in support of S.B. No. 126 proposed by Senators Johnson and Sykes, which would limit noncompete provisions in physician employment contracts.

I have been following Senator Johnson's efforts to limit noncompete clauses in physician contracts in the state of Ohio for years due to their negative impact on me personally. I grew up in Ohio and graduated from The Ohio State University for both my medical school and residency training. Upon completion of training, my husband, also a physician, and I were both excited to start our careers. We both had to sign a 20-mile, one-year noncompete clause at the start of our employment. Like most people, we were optimistic that this was where we could spend our career. Unfortunately, an often-quoted statistic is that over half of physicians leave their first job within 5 years of employment (1). Like many physicians in a new position, my husband soon realized that he would have to leave his current employment in order to be content in the practice of medicine. Although there were employers in his specialty in our city that expressed interest in hiring him, he was not able to start employment there because of the noncompete clause. As a family, we felt trapped. Ultimately, the noncompete clause forced us both to have to leave our family, friends, and patients so that he could continue to work at another location 100 miles away.

The negative effects of noncompete provisions in physician employment contracts are not limited to my family. In recent years, challenges negotiating fair payments from insurers, the need for improved access to costly resources, and the need to manage regulatory burdens have forced private physician groups to sell their practices to health systems (2,3). This has led to an increase in non-compete clauses in employment contracts. In Ohio, noncompete agreements in employment contracts have become increasingly unfair to the physician. For example, some pediatric specialists in central Ohio are expected to sign two year, one hundred mile noncompete agreements (6). This essentially forces any physician leaving this practice to also leave the state. In the case of less common specialties, it may make it so that a patient in Ohio may be unable to see a physician in that specialty at all. The average medical school debt in the United States is in excess of \$200,000 for a new physician— this is excluding educational debt incurred prior to medical school and is six times that of the average college graduate (4). For this reason, young physicians simply cannot take a year or two off to wait out a noncompete provision. Allowing a hospital to effectively ban a physician from working in the state if they leave a given hospital harms the physician and the state's populace, negatively impacts both physicians and patients wellbeing and may contribute to physicians' ultimately pursuing a career outside of healthcare. In fact, the American Medical Association is now recommending outlawing noncompete contract clauses in hospital contracts (5). These clauses were originally developed for executives who might have access to a company's proprietary information. However, physicians do not have

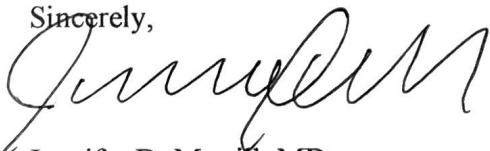
access to a company's proprietary information. We use standards of care to diagnose and treat diseases. A hospital's proprietary business information would instead more appropriately be protected by nondisclosure or non-solicitation agreements.

Hospital systems argue that hiring a physician is a significant expense and that these contracts are necessary to protect their business interests. However, there are already many states that ban physician noncompete clauses or ban noncompete clauses more broadly, including California, North Dakota, Oklahoma, New Hampshire, Delaware, Massachusetts and Rhode Island (5). In fact, of the US News and World Report Honor Roll Hospitals for 2023-2024, more than a quarter are in states that do not allow physician noncompete clauses (7). One could argue that having a system that encourages hospitals to work with physicians to improve patient care, rather than using contracts to force them to stay may be part of these hospital's success. Furthermore, some of the strongest healthcare systems in the country are flourishing in states where non-compete clauses are unenforceable.

When I was forced to leave my first practice by the noncompete clause in my husband's contract, I was surprised to find that quite a few of the patients from my previous practice were willing to drive more than 100 miles several times per year to continue to see me. Patients really value having a physician they trust and it adds substantial stress to their lives to have to find another one if their physician leaves. No wonder hospital systems want to ensure that a physician must practice outside of their catchment area if they leave their employment. However, we all went into health care to serve patients. Shouldn't their needs come first? Why do we have a system that forces patients to drive hundreds of miles to see a physician who wanted to practice in their city but cannot due to whims of a health system?

While I am unfortunately unable to testify in person due to previously scheduled patient care responsibilities, I hope that my written testimony has been helpful for you to understand how these clauses are harmful to the doctor-patient relationship, physician well-being, and the populace of Ohio by driving physicians away from the state and healthcare in order to promote a hospital's business interests. Non-compete clauses are the antithesis of the American freedoms that made our country great and should ultimately be outlawed completely. I believe that Senate Bill 126 is a step in the right direction. Please feel free to reach out to me if you have any questions.

Sincerely,



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