

To: Members of the Ohio Senate Health Committee

Fr: Joe Rosato, Director, Government Relations, Ohio State Medical Association

Da: December 13, 2023

Re: SB 126

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On behalf of the Ohio State Medical Association (OSMA), the state's oldest and largest professional organization representing Ohio physicians, medical residents, and medical students, I am writing today to express support for Senate Bill 126, which would restrict nonprofit hospital requirements for a physician, physician assistant, or advanced practice registered nurse, as a condition of employment, to enter into a postemployment noncompete agreement.

This legislation authorizes such a postemployment noncompete agreement only if the noncompete terms are limited to six months and the surrounding 15-mile area. Further, SB 126 specifies that it applies to postemployment agreements and does not prohibit a nonprofit hospital from requiring a physician, physician assistant, or advanced practice registered nurse, as a condition of employment, to agree that the practitioner will refrain from obtaining employment during the term of the employment contract.

Over the years OSMA has heard concerns from our physician members over the use of noncompete agreements (also known as restrictive covenants) in employment contracts. Some of the frustrations physicians have voiced include restrictions on the medical profession, interference with the physician-patient relationship and continuity of care, and furthermore, exacerbation of physician shortages in certain regions or communities.

In a similar vein, the American Medical Association's Code of Medical Ethics Opinion 11.2.3.1 on this topic reads as follows: "Competition among physicians is ethically justifiable when it is based on such factors as quality of services, skill, experience, conveniences offered to patients, fees, or credit terms. Covenants-not-to-compete restrict competition, can disrupt continuity of care, and may limit access to care."

OSMA fundamentally believes that Ohio's patient population has a right to receive health care services from the physician of their choice, and to that end, employment contracts should not interfere with access to their doctors. We encourage support for SB 126 with a goal of reducing the burden of restrictive covenants on health care delivery in Ohio.

Thank you for your consideration of our comments on this legislation, and as always, OSMA is grateful for the opportunity to be a meaningful contributor to the legislative process. Please feel free to reach out to us if you have any questions or wish to discuss this matter further.