

October, 25 2021

Small Business and Economic Opportunity Committee
The Ohio State Senate
1 Capitol Square
Columbus, Ohio 43215

Dear Small Business and Economic Opportunity Committee,

I am writing in support of S.B. No. 150 proposed by Senators Johnson and Williams, which would prohibit noncompete provisions in physician employment contracts.

I first became aware of S.B. No. 150 due to the negative impact of a physician noncompete 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 fellowship, my husband, also a physician, and I were both excited to move back to Columbus to start our careers. We both had to sign a 20-mile, one-year noncompete clause at the start of our employment in Ohio. Like most people starting a new position, we were optimistic that this was where we could spend our career. Unfortunately, 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 are jobs available 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. Instead, he took a job 80 miles away. This leaves us trying to navigate whether I should also leave my patients and a job I love in order to keep our family together. In this case, his noncompete has been harmful to him, to me, to my patients, and the physicians and staff in my department who are scrambling to shuffle patients so I can try to stay. Since we were employed by the same hospital system, if I am forced to leave to keep my family together, it will also be harmful to the health system that thought it was protecting its business interests by creating this clause.

The negative effects of noncompete provisions in physician employment contracts are not just limited to my family. In recent years, physician burnout has been recognized as an important problem facing healthcare and affecting more than half of physicians. In studies, factors related to the physicians' employer can contribute significantly to burnout. These include excessive workloads, long working hours, loss of autonomy at work, decreased control over the work environment, and inefficient use of time due to administrative requirements (2). Burnout in healthcare workers is thought to result in poorer patient care and is known to increase healthcare cost (3). Non-compete clauses harm physicians' ability to advocate for changes that will improve their job satisfaction and ability to care for patients. 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 and must move or endure a long commute to find a position that is a better fit. Allowing a hospital to effectively ban a physician from working in a city 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.

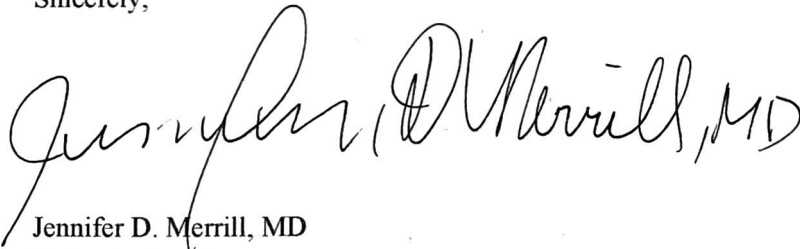
In recent years, more physicians have left independent practice in favor of employed positions, leading to an increase in non-compete clauses employment contracts. Hospital systems argue that hiring a physician is a significant expense and that these contracts are necessary to protect their business interests.

Historically, non-compete clauses were reserved for highly paid executive positions for which perhaps only a few people in the country were qualified. However, physicians differ from the executives that historically had these clauses in their contracts in that there are typically quite a few in our city with our skill set. For example, Columbus has almost 70 other endocrinologists with similar training and skill set to mine. We do not have any proprietary information that could be deleterious to the hospital system if shared. In Ohio, these 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 (5). This essentially forces any physician leaving this hospital system to also leave the state. In the case of less common specialties, it may make it so that a patient may be unable to see a physician in that specialty in Ohio at all.

Recently, a long standing and well-loved physician left my practice group for a promotion in a different state and I have been largely taking over his patient panel. It is eye-opening to see how much his patients admire, trust, and depend on him. Many have told me during our first visit that they would gladly drive 8 hours each way to see him if their insurance would allow. If a physician leaves a practice but stays in the same location, their patients will often choose to preserve their relationship if given the choice. 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? In voting for this bill, the Ohio Senate can help ensure that they do.

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 in helping you to understand the widespread negative impacts of physician noncompete provisions. These clauses are harmful to the doctor-patient relationship, harm physician well-being, cause undue stress for patients, and hurt the populace of Ohio by unnecessarily driving physicians away from the state and healthcare in order to promote a hospital's business interest. Choosing where you work is an important freedom and I hope you will vote to support that right.

Sincerely,

A handwritten signature in black ink that reads "Jennifer D. Merrill, MD". The signature is fluid and cursive, with the first name "Jennifer" being the most prominent part.

Jennifer D. Merrill, MD
Endocrinologist
Columbus, Ohio
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Sources:

1. McEachern, Ed and Wakefield, Sara. "Study Shows First Job After Medical Residency Often Doesn't Last: Jackson & Coker finds over 50% leave first job within 5 years." PR Newswire, Jul 10, 2012, <https://www.prnewswire.com/news-releases/study-shows-first-job-after-medical-residency-often-doesnt-last-161949055.html>.

2. Patel, RS, Bachu, R, Adikey, A, Malik, M, and Shah, M. Factors Related to Physician Burnout and Its Consequences: A Review. Behav Sci (Basel). 2018; 8(11): 98.
3. Moss, M, Good, VS, Gozal, D, Kleinpell, R, Sessler, CN. A Critical Care Societies Collaborative Statement: Burnout Syndrome in Critical Care Health-care Professionals. A Call for Action. American Journal of Respiratory and Critical Care Medicine. 2016; 194 (1): 106-13.
4. Hanson, Melanie. "Average Medical School Debt" EducationData.org, July 10, 2021, <https://educationdata.org/average-medical-school-debt>.
5. Sutherly, Ben. "Nationwide Children's Doctors Face 100 Mile Non-compete Ban." The Columbus Dispatch, Feb 7, 2016, <https://www.dispatch.com/article/20160207/NEWS/302079932>.