As Introduced

135th General Assembly
Regular Session
2023-2024

S. B. No. 126

Senator Johnson
Cosponsors: Senators Hoagland, Sykes

A BILL

To enact section 3727.62 of the Revised Code regarding the use of noncompete provisions in certain health care professional employment contracts with nonprofit hospitals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3727.62 of the Revised Code be enacted to read as follows:

Sec. 3727.62. (A) As used in this section:

(1) "Advanced practice registered nurse" has the same meaning as in section 4723.01 of the Revised Code.

(2) "Health care professional employee" means a physician, physician assistant, or advanced practice registered nurse employed by a nonprofit hospital. "Health care professional employee" does not include a management employee employed by a nonprofit hospital.

(3) "Management employee" means an employee who formulates policy on behalf of a nonprofit hospital, who directs the implementation of policy, or who may be reasonably required on
behalf of the hospital to have a major role in personnel administration.

(4) "Nonprofit hospital" means a hospital, as defined in section 3722.01 of the Revised Code, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(5) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(6) "Physician assistant" means an individual who is licensed under Chapter 4730. of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, no nonprofit hospital shall require a health care professional employee or prospective health care professional employee, as a condition of employment with the hospital, to agree that, at the conclusion of the employment with the hospital, the employee will refrain from obtaining employment in a specified geographic area, for a specified period of time, with a particular employer, or in a particular industry or practice specialty.

(2) A nonprofit hospital may require a health care professional employee or prospective health care professional employee, as a condition of employment with the hospital, to agree that, at the conclusion of the employment with the hospital, the employee will refrain, for a period not to exceed six months, from obtaining employment within a radius of fifteen miles of the physical location where the employee was employed with the hospital. To implement this requirement, the hospital
shall identify in the employee's employment contract with the hospital one specific physical address from which the fifteen-mile radius will be measured.

(C) Division (B) of this section does not prohibit a nonprofit hospital from requiring a health care professional employee or prospective health care professional employee, as a condition of employment with the hospital, to agree that, during the term of the employee's employment contract with the hospital, the employee will refrain from obtaining employment in a specified geographic area, for a specified period of time, with a particular employer, or in a particular industry or practice specialty.

(D) An agreement by a health care professional employee to waive the employee's rights under division (B) of this section is void and unenforceable.

(E) If a health care professional employee or prospective health care professional employee believes that a nonprofit hospital has violated division (B) of this section, the employee or prospective employee may bring a civil action against the hospital in a court of competent jurisdiction. A nonprofit hospital that violates division (B) of this section is liable to a health care professional employee or prospective health care professional employee for damages and attorney's fees and costs.