

BILL ANALYSIS

S.B. 1713
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Covenants not to compete are common in the business world. These are contracts that restrict the ability of an individual to compete with the individual's former employers or business partners. In general, these agreements ask former employees or partners not to perform similar work within a designated area for a specified amount of time after leaving employment or partnership. A covenant not to compete is legal and enforceable, although there are some exceptions.

Legislation enacted by the 76th Legislature, provides that a covenant not to compete is enforceable against a physician if it does not deny the physician access to a list of his patients whom he had seen or treated within one year of termination of the contract or employment; provides access to medical records of the physician's patients; provides a buy-out of the covenant by the physician at a reasonable price; and provides that the physician will not be prohibited from providing continuing care and treatment to a specific patient or patients during the course of an acute illness even after the contract or employment has been terminated. Some now question whether the language extends to covenants not to compete involving business ventures that do not involve the practice of medicine.

S.B. 1713 amends current law relating to covenants not to compete by physicians.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1713 amends the Business & Commerce Code to specify that a covenant not to compete relating to the practice of medicine, if the covenant complies with certain requirements, is enforceable against a person licensed as a physician by the Texas Medical Board.

S.B. 1713 specifies that provisions relating to such a covenant do not apply to a physician's business ownership interest in a licensed hospital or licensed ambulatory surgical center.

EFFECTIVE DATE

September 1, 2009.