

By: Elkins

H.B. No. 3623

A BILL TO BE ENTITLED

AN ACT

relating to covenants not to compete by physicians.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 15.50, Business & Commerce Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A covenant not to compete relating to the practice of medicine is enforceable against a person licensed as a physician by the Texas Medical Board [~~State Board of Medical Examiners~~] if such covenant complies with the following requirements:

(1) the covenant must:

(A) 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;

(B) provide access to medical records of the physician's patients upon authorization of the patient and any copies of medical records for a reasonable fee as established by the Texas Medical Board [~~State Board of Medical Examiners~~] under Section 159.008, Occupations Code; and

(C) provide that any access to a list of patients or to patients' medical records after termination of the contract or employment shall not require such list or records to be provided in a format different than that by which such records are maintained except by mutual consent of the parties to the contract;

1           (2) the covenant must provide for a buy out of the  
2 covenant by the physician at a reasonable price or, at the option of  
3 either party, as determined by a mutually agreed upon arbitrator  
4 or, in the case of an inability to agree, an arbitrator of the court  
5 whose decision shall be binding on the parties; and

6           (3) the covenant must provide that the physician will  
7 not be prohibited from providing continuing care and treatment to a  
8 specific patient or patients during the course of an acute illness  
9 even after the contract or employment has been terminated.

10           (c) Subsection (b) does not apply to a physician's business  
11 ownership interest in a licensed hospital or licensed ambulatory  
12 surgical center.

13           SECTION 2. This Act applies only to a covenant entered into  
14 on or after the effective date of this Act. A covenant entered into  
15 before the effective date of this Act is governed by the law in  
16 effect at the time the covenant was entered into, and that law is  
17 continued in effect for that purpose.

18           SECTION 3. This Act takes effect September 1, 2009.