

1-1 By: Elkins (Senate Sponsor - Hegar) H.B. No. 3623
1-2 (In the Senate - Received from the House May 14, 2009;
1-3 May 15, 2009, read first time and referred to Committee on
1-4 Administration; May 20, 2009, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 20, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to covenants not to compete by physicians.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 15.50, Business & Commerce Code, is
1-11 amended by amending Subsection (b) and adding Subsection (c) to
1-12 read as follows:

1-13 (b) A covenant not to compete relating to the practice of
1-14 medicine is enforceable against a person licensed as a physician by
1-15 the Texas Medical Board [~~State Board of Medical Examiners~~] if such
1-16 covenant complies with the following requirements:

1-17 (1) the covenant must:

1-18 (A) not deny the physician access to a list of his
1-19 patients whom he had seen or treated within one year of termination
1-20 of the contract or employment;

1-21 (B) provide access to medical records of the
1-22 physician's patients upon authorization of the patient and any
1-23 copies of medical records for a reasonable fee as established by the
1-24 Texas Medical Board [~~State Board of Medical Examiners~~] under
1-25 Section 159.008, Occupations Code; and

1-26 (C) provide that any access to a list of patients
1-27 or to patients' medical records after termination of the contract
1-28 or employment shall not require such list or records to be provided
1-29 in a format different than that by which such records are maintained
1-30 except by mutual consent of the parties to the contract;

1-31 (2) the covenant must provide for a buy out of the
1-32 covenant by the physician at a reasonable price or, at the option of
1-33 either party, as determined by a mutually agreed upon arbitrator
1-34 or, in the case of an inability to agree, an arbitrator of the court
1-35 whose decision shall be binding on the parties; and

1-36 (3) the covenant must provide that the physician will
1-37 not be prohibited from providing continuing care and treatment to a
1-38 specific patient or patients during the course of an acute illness
1-39 even after the contract or employment has been terminated.

1-40 (c) Subsection (b) does not apply to a physician's business
1-41 ownership interest in a licensed hospital or licensed ambulatory
1-42 surgical center.

1-43 SECTION 2. This Act applies only to a covenant entered into
1-44 on or after the effective date of this Act. A covenant entered into
1-45 before the effective date of this Act is governed by the law in
1-46 effect at the time the covenant was entered into, and that law is
1-47 continued in effect for that purpose.

1-48 SECTION 3. This Act takes effect September 1, 2009.

1-49 * * * * *