

1-1 By: Hegar S.B. No. 1713  
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 April 24, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 24, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1713 By: Shapleigh

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to covenants not to compete by physicians.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Section 15.50, Business & Commerce Code, is  
1-13 amended by amending Subsection (b) and adding Subsection (c) to  
1-14 read as follows:

1-15 (b) A covenant not to compete relating to the practice of  
1-16 medicine is enforceable against a person licensed as a physician by  
1-17 the Texas Medical Board [~~State Board of Medical Examiners~~] if such  
1-18 covenant complies with the following requirements:

1-19 (1) the covenant must:

1-20 (A) not deny the physician access to a list of his  
1-21 patients whom he had seen or treated within one year of termination  
1-22 of the contract or employment;

1-23 (B) provide access to medical records of the  
1-24 physician's patients upon authorization of the patient and any  
1-25 copies of medical records for a reasonable fee as established by the  
1-26 Texas Medical Board [~~State Board of Medical Examiners~~] under  
1-27 Section 159.008, Occupations Code; and

1-28 (C) provide that any access to a list of patients  
1-29 or to patients' medical records after termination of the contract  
1-30 or employment shall not require such list or records to be provided  
1-31 in a format different than that by which such records are maintained  
1-32 except by mutual consent of the parties to the contract;

1-33 (2) the covenant must provide for a buy out of the  
1-34 covenant by the physician at a reasonable price or, at the option of  
1-35 either party, as determined by a mutually agreed upon arbitrator  
1-36 or, in the case of an inability to agree, an arbitrator of the court  
1-37 whose decision shall be binding on the parties; and

1-38 (3) the covenant must provide that the physician will  
1-39 not be prohibited from providing continuing care and treatment to a  
1-40 specific patient or patients during the course of an acute illness  
1-41 even after the contract or employment has been terminated.

1-42 (c) Subsection (b) does not apply to a physician's business  
1-43 ownership interest in a licensed hospital or licensed ambulatory  
1-44 surgical center.

1-45 SECTION 2. This Act applies only to a covenant entered into  
1-46 on or after the effective date of this Act. A covenant entered into  
1-47 before the effective date of this Act is governed by the law in  
1-48 effect at the time the covenant was entered into, and that law is  
1-49 continued in effect for that purpose.

1-50 SECTION 3. This Act takes effect September 1, 2009.

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