

BILL ANALYSIS

Senate Research Center
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S.B. 1318
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A physician non-compete clause is a restrictive section in an employment contract that prevents a doctor or other health care provider from practicing medicine within a defined area. While the employer seeks to prevent competition, these "physician non-competes" are often extremely broad or very narrow, and unduly burden the provider as a requirement of employment.

Non-compete clauses restrict a physician from practicing medicine by placing large geographic boundaries (50-100 mile radius) around the current employer's business. This is problematic if the physician entered in a non-compete with a large hospital network that spans over a large region. Furthermore, these physician non-compete clauses impact the doctor-patient relationship and can be devastating to patients, especially those requiring specialty care, who discover that their doctor is no longer able to provide care due to proximity restrictions.

Texas Business and Commerce Code §15.50(b) outlines the requirements for a non-compete agreement to be enforceable against a physician, and in relevant part states:

"The covenant must provide for a buy-out of the covenant by the physician at a reasonable price or, at the option of either party, as determined by a mutually agreed upon arbitrator or, in case of an inability to agree, an arbitrator of the court whose decisions shall be binding on the parties."

Although the physician is given the option of a buyout, often times the amount of the buyout can be significant or even exorbitant.

S.B. 1318 would establish guardrails for physician non-competes that protect patient access to care, reduce the legal ambiguity and burdens of litigation, safeguard the integrity and mobility of the healthcare workforce, and promote competition.

As proposed, S.B. 1318 amends current law relating to restrictions on covenants not to compete for physicians and certain health care practitioners.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 15.50(a) and (b), Business & Commerce Code, as follows:

(a) Provides that, notwithstanding Section 15.05 (Unlawful Practices), and subject to any applicable provision of Subsection (b) and Section 15.501, a covenant not to compete is enforceable if it is ancillary to or part of an otherwise enforceable agreement at the time the agreement is made to the extent that it contains certain limitations. Makes a nonsubstantive change.

(b) Provides that 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 if such covenant complies with the following requirements:

(1) makes nonsubstantive changes to this subdivision;

(2) requires the covenant to provide for a buyout of the covenant by the physician in an amount that is not greater than the physician's total annual salary and wages at the time of termination of the contract or employment, rather than at a reasonable price or, at the option of either party, as determined by a mutually agreed upon arbitrator or, in the case of an inability to agree, an arbitrator of the court whose decision is required to be binding on the parties;

(3) makes a nonsubstantive change to this subdivision; and

(4) requires the covenant to expire not later than the one-year anniversary of the date the contract or employment has been terminated and limit the geographical area subject to the covenant to no more than a five-mile radius.

Makes a nonsubstantive change to this subsection.

SECTION 2. Amends Subchapter E, Chapter 15, Business & Commerce Code, by adding Section 15.501, as follows:

Sec. 15.501. COVENANTS NOT TO COMPETE AGAINST HEALTH CARE PRACTITIONERS. (a) Defines "health care practitioner."

(b) Provides that a covenant not to compete against a health care practitioner is not enforceable unless the covenant provides for a buyout of the covenant by the health care practitioner in an amount that is not greater than the practitioner's total annual salary and wages at the time of termination of the practitioner's contract or employment, expires not later than the one-year anniversary of the date the contract or employment has been terminated, and limits the geographical area subject to the covenant to no more than a five-mile radius.

SECTION 3. Amends Section 15.52, Business & Commerce Code, as follows:

Sec. 15.52. PREEMPTION OF OTHER LAW. Provides that the criteria for enforceability of a covenant not to compete provided by Sections 15.50 (Criteria for Enforceability of Covenants Not to Compete) and 15.501 and the procedures and remedies in an action to enforce a covenant not to compete provided by Section 15.51 (Procedures and Remedies in Actions to Enforce Covenants Not to Compete) are exclusive and preempt other law, including common law. Deletes existing text providing that the criteria for enforceability of a covenant not to compete provided by Section 15.50 of this code are exclusive and preempt any other criteria for enforceability of a covenant not to compete or procedures and remedies in an action to enforce a covenant not to compete under common law or otherwise. Makes nonsubstantive changes.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2025.