

By: Schwertner, et al.
(Bonnen, Lalani)

S.B. No. 1318

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on covenants not to compete for physicians
and certain health care practitioners.

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

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

(a) Notwithstanding Section 15.05 [~~of this code,~~] 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 limitations as to
time, geographical area, and scope of activity to be restrained
that are reasonable and do not impose a greater restraint than is
necessary to protect the goodwill or other business interest of the
promisee.

(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 if such covenant complies with the
following requirements:

(1) the covenant must:

(A) not deny the physician access to a list of the
physician's [~~his~~] patients whom the physician [~~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 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;

(2) the covenant must provide for a buyout ~~[buy-out]~~ 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 ~~[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 shall be binding on the parties]; [and]~~

(3) the covenant must provide 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; and

(4) the covenant must:

(A) expire not later than the one-year anniversary of the date the contract or employment has been terminated; and

(B) limit the geographical area subject to the

1 covenant to no more than a five-mile radius from the location at
2 which the physician primarily practiced before contract or
3 employment terminated, as specified in the covenant.

4 (b-1) For the purposes of Subsection (b), the practice of
5 medicine does not include managing or directing medical services in
6 an administrative capacity for a medical practice.

7 SECTION 2. Subchapter E, Chapter 15, Business & Commerce
8 Code, is amended by adding Section 15.501 to read as follows:

9 Sec. 15.501. COVENANTS NOT TO COMPETE AGAINST HEALTH CARE
10 PRACTITIONERS. (a) In this section, "health care practitioner"
11 means:

12 (1) a person licensed by the State Board of Dental
13 Examiners to practice dentistry in this state;

14 (2) a person licensed under Chapter 301, Occupations
15 Code, to engage in professional or vocational nursing; or

16 (3) a physician assistant licensed under Chapter 204,
17 Occupations Code.

18 (b) A covenant not to compete against a health care
19 practitioner is not enforceable unless the covenant:

20 (1) provides for a buyout of the covenant by the health
21 care practitioner in an amount that is not greater than the
22 practitioner's total annual salary and wages at the time of
23 termination of the practitioner's contract or employment;

24 (2) expires not later than the one-year anniversary of
25 the date the contract or employment has been terminated; and

26 (3) limits the geographical area subject to the
27 covenant to no more than a five-mile radius from the location at

1 which the physician primarily practiced before contract or
2 employment terminated, as specified in the covenant.

3 SECTION 3. Section 15.52, Business & Commerce Code, is
4 amended to read as follows:

5 Sec. 15.52. PREEMPTION OF OTHER LAW. The criteria for
6 enforceability of a covenant not to compete provided by Sections
7 ~~[Section]~~ 15.50 and 15.501 ~~[of this code]~~ and the procedures and
8 remedies in an action to enforce a covenant not to compete provided
9 by Section 15.51 ~~[of this code]~~ are exclusive and preempt ~~[any]~~
10 other law, including ~~[criteria for enforceability of a covenant not~~
11 ~~to compete or procedures and remedies in an action to enforce a~~
12 ~~covenant not to compete under]~~ common law ~~[or otherwise]~~.

13 SECTION 4. The changes in law made by this Act apply only to
14 a covenant not to compete entered into or renewed on or after the
15 effective date of this Act. A covenant not to compete entered into
16 or renewed before the effective date of this Act is governed by the
17 law in effect on the date the covenant was entered into or renewed,
18 and the former law is continued in effect for that purpose.

19 SECTION 5. This Act takes effect September 1, 2025.