

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 19, 2024
Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

HB24-1005 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 8-2-113, amend
4 (5)(a) as follows:

5 **8-2-113. Unlawful to intimidate worker - agreement not to**
6 **compete - physician employment agreement - prohibition - exceptions**
7 **- notice - definitions.** (5) (a) (I) EXCEPT AS PROVIDED IN SUBSECTION
8 (5)(a)(III)(A) OF THIS SECTION, any covenant not to compete provision of
9 an ~~employment, partnership, or corporate agreement between physicians~~
10 that restricts the right of a physician to practice medicine, as defined in
11 section 12-240-107, upon termination of the agreement is void; except
12 that ~~all other provisions of the agreement enforceable at law, including~~
13 ~~provisions that require the payment of damages in an amount that is~~
14 ~~reasonably related to the injury suffered by reason of termination~~ DUE TO
15 A BREACH of the agreement are enforceable. Provisions of a ~~covenant not~~
16 ~~to compete~~ PHYSICIAN EMPLOYMENT AGREEMENT that require the payment
17 of damages upon ~~termination~~ BREACH of the agreement may include
18 damages related to competition BUT MUST NOT INCLUDE:

19 (A) DAMAGES RESULTING FROM BREACH OF A VOID COVENANT
20 NOT TO COMPETE;

21 (B) DAMAGES RELATED TO COMPETITION THAT RESULT FROM A
22 PRIMARY CARE PROVIDER'S TERMINATION OF AN EMPLOYMENT
23 AGREEMENT THAT HAS A TERM OF AT LEAST FOUR YEARS; OR

24 (C) A LIQUIDATED DAMAGES AMOUNT THAT IS NOT AN
25 ENFORCEABLE LIQUIDATED DAMAGES PROVISION AS A MATTER OF LAW,
26 THAT IS NOT REASONABLY RELATED TO THE ACTUAL INJURY SUFFERED, OR
27 THAT EXCEEDS ONE-HALF OF THE PRIMARY CARE PROVIDER'S ANNUAL

1 CASH COMPENSATION IMMEDIATELY PRIOR TO THE TERMINATION OF
2 EMPLOYMENT OR OTHER ASSOCIATION.

3 (II) ANY CONTRACT THAT CONTAINS A DAMAGES CLAUSE THAT IS
4 SUBJECT TO THIS SUBSECTION (5)(a) IS ALSO SUBJECT TO SUBSECTIONS (4),
5 (5)(b), (6), AND (7) OF THIS SECTION.

6 (III) SUBSECTIONS (5)(a)(I) AND (5)(a)(II) OF THIS SECTION:

7 (A) DO NOT APPLY TO A PHYSICIAN WHO HOLDS A MAJORITY
8 INTEREST IN A MEDICAL PRACTICE AND ENTERS INTO AN AGREEMENT TO
9 SELL THE MEDICAL PRACTICE; AND

10 (B) DO APPLY TO A MINORITY OWNER OF A MEDICAL PRACTICE
11 WHO AGREES TO THE SALE OF THE MEDICAL PRACTICE IN WHICH THE
12 MINORITY OWNER HAS INTEREST.

13 **SECTION 2. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly; except that, if a referendum petition is filed pursuant
17 to section 1 (3) of article V of the state constitution against this act or an
18 item, section, or part of this act within such period, then the act, item,
19 section, or part will not take effect unless approved by the people at the
20 general election to be held in November 2024 and, in such case, will take
21 effect on the date of the official declaration of the vote thereon by the
22 governor.

23 (2) This act applies to contracts entered into on or after the
24 applicable effective date of this act."

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