

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-0562.01 Duane Gall x4335

SENATE BILL 18-082

SENATE SPONSORSHIP

Zenzinger, Aguilar, Todd

HOUSE SPONSORSHIP

Kennedy,

Senate Committees

State, Veterans, & Military Affairs

House Committees

Health, Insurance, & Environment

A BILL FOR AN ACT

101 **CONCERNING A PHYSICIAN'S RIGHT TO PROVIDE CONTINUING CARE TO**
102 **PATIENTS WITH RARE DISORDERS DESPITE A COVENANT NOT TO**
103 **COMPETE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

An agreement among physicians may contain a covenant not to compete, under which a physician who leaves the group practice may be compelled to pay damages if he or she solicits patients who are former or prospective patients of the group practice. The bill makes an exception in the case of patients with a rare disorder, as determined in accordance with

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 19, 2018

HOUSE
Amended 2nd Reading
March 16, 2018

SENATE
3rd Reading Unamended
February 9, 2018

SENATE
2nd Reading Unamended
February 8, 2018

nationally recognized criteria, who would otherwise not have ready access to a physician with the necessary expertise to treat the disorder.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-2-113, **amend** (3)
3 as follows:

4 **8-2-113. Unlawful to intimidate worker - agreement not to**
5 **compete.** (3) (a) Any covenant not to compete provision of an
6 employment, partnership, or corporate agreement between physicians
7 ~~which~~ THAT restricts the right of a physician to practice medicine, as
8 defined in section 12-36-106, ~~C.R.S.~~, upon termination of ~~such~~ THE
9 agreement, ~~shall be~~ IS void; except that all other provisions of ~~such an~~
10 THE agreement enforceable at law, including provisions ~~which~~ THAT
11 require the payment of damages in an amount that is reasonably related
12 to the injury suffered by reason of termination of the agreement, ~~shall be~~
13 ARE enforceable. Provisions ~~which~~ OF A COVENANT NOT TO COMPETE
14 THAT require the payment of damages upon termination of the agreement
15 may include ~~but not be limited to~~, damages related to competition.

16 (b) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION,
17 AFTER TERMINATION OF AN AGREEMENT DESCRIBED IN SUBSECTION (3)(a)
18 OF THIS SECTION, A PHYSICIAN MAY DISCLOSE HIS OR HER CONTINUING
19 PRACTICE OF MEDICINE AND NEW PROFESSIONAL CONTACT INFORMATION
20 TO ANY PATIENT WITH A RARE DISORDER, AS DEFINED IN ACCORDANCE
21 WITH CRITERIA DEVELOPED BY THE NATIONAL ORGANIZATION FOR RARE
22 DISORDERS, INC., OR A SUCCESSOR ORGANIZATION, TO WHOM THE
23 PHYSICIAN WAS PROVIDING CONSULTATION OR TREATMENT BEFORE
24 TERMINATION OF THE AGREEMENT. ■ NEITHER THE PHYSICIAN NOR THE
25 PHYSICIAN'S EMPLOYER, IF ANY, IS LIABLE TO ANY PARTY TO THE PRIOR

1 AGREEMENT FOR DAMAGES ALLEGED TO HAVE RESULTED FROM THE
2 DISCLOSURE OR FROM THE PHYSICIAN'S TREATMENT OF THE PATIENT AFTER
3 TERMINATION OF THE PRIOR AGREEMENT.

4 **SECTION 2. Applicability.** This act applies to conduct occurring
5 on or after the effective date of this act.

6 **SECTION 3. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.