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AN ACT
RELATING TO PUBLIC HEALTH; MAKING NON-COMPETE PROVISIONS IN
CERTAIN HEALTH CARE PRACTITIONER AGREEMENTS UNENFORCEABLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. DEFINITIONS.--As used in this act:

A. "agreement" means a written contract to which a
health care practitioner is a party; and

B. "health care practitioner" means:

- (1) a dentist;
- (2) an osteopathic physician;
- (3) a physician;
- (4) a podiatrist; and
- (5) a certified registered nurse

anesthetist.

SECTION 2. ENFORCEABILITY OF A NON-COMPETE PROVISION.--

A non-compete provision in an agreement, which provision
restricts the right of a health care practitioner to provide
clinical health care services, shall be unenforceable upon
the termination of:

- A. the agreement;
- B. a renewal or extension of the agreement; or
- C. a health care practitioner's employment with a
party seeking to enforce the agreement.

SECTION 3. ENFORCEABILITY OF OTHER PROVISIONS.--

1 Nothing in this act shall be construed to limit the
2 enforceability of:

3 A. a provision in an agreement requiring a health
4 care practitioner who has worked for an employer for an
5 initial period of less than three years to repay all or a
6 portion of:

7 (1) a loan;

8 (2) relocation expenses;

9 (3) a signing bonus or other remuneration to
10 induce the health care practitioner to relocate or establish
11 a health care practice in a specified geographic area; or

12 (4) recruiting, education and training
13 expenses;

14 B. a nondisclosure provision relating to
15 confidential information and trade secrets;

16 C. a nonsolicitation provision with respect to
17 patients and employees of the party seeking to enforce the
18 agreement for a period of one year or less after the last
19 date of employment; or

20 D. any other provision of an agreement that is not
21 in violation of law, including a provision for liquidated
22 damages.

23 SECTION 4. LIQUIDATED DAMAGES.--

24 A. An agreement may provide for liquidated damages
25 in an amount that is reasonable at the time the agreement is

1 executed and in light of anticipated harm and difficulty of
2 proving the amount of loss resulting from breach of the
3 agreement by any party.

4 B. A provision in an agreement fixing unreasonably
5 large liquidated damages is void as a penalty.

6 SECTION 5. APPLICABILITY.--

7 A. This act does not apply to agreements between
8 health care practitioners who are shareholders, owners,
9 partners or directors of a health care practice.

10 B. The provisions of this act apply to agreements,
11 or renewals or extensions of agreements, executed on or after
12 July 1, 2015. _____

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