

CHAPTER 366

LABOR AND INDUSTRY

SENATE BILL 25-083

BY SENATOR(S) Daugherty and Frizzell, Bridges, Cutter, Jodeh, Kipp, Snyder, Weissman, Winter F., Coleman;
also REPRESENTATIVE(S) Brown and Garcia Sander, Boesenecker, Clifford, Liedler.

AN ACT**CONCERNING LIMITATIONS ON RESTRICTIVE EMPLOYMENT AGREEMENTS.**

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

SECTION 1. In Colorado Revised Statutes, 8-2-113, **amend** (2)(a), (2)(b), (2)(c) introductory portion, (2)(c)(I), (2)(d), (3)(b), (3)(c), (5), and (9)(a); and **add** (2)(c)(I.3), (2)(c)(I.4), (2)(c)(I.5), (2)(c)(I.6), (2)(c)(I.7), and (5.5) as follows:

8-2-113. Unlawful to intimidate worker - agreement not to compete - prohibition - exceptions - notice - rules - definitions. (2) (a) Except as provided in subsections (2)(b), **(2)(d)**, and (3) of this section, ~~any~~ A covenant not to compete that restricts the right of ~~any person~~ AN INDIVIDUAL to receive compensation for performance of labor ~~for any employer~~ is void.

(b) EXCEPT FOR A COVENANT NOT TO COMPETE THAT RESTRICTS THE PRACTICE OF MEDICINE, THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING, OR THE PRACTICE OF DENTISTRY IN THIS STATE, this subsection (2) does not apply to a covenant not to compete governing ~~a person~~ AN INDIVIDUAL who, at the time the covenant not to compete is entered into and at the time it is enforced, earns an amount of annualized cash compensation equivalent to or greater than the threshold amount for highly compensated workers, if the covenant not to compete is for the protection of trade secrets and is no broader than is reasonably necessary to protect the employer's legitimate interest in protecting trade secrets.

(c) As used in this ~~subsection (2)~~ SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "Annualized cash compensation" means:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(A) The amount of the gross salary or wage amount, the fee amount, or the other compensation amount for the full year, if the ~~person~~ INDIVIDUAL was employed or engaged for a full year; OR

(B) The compensation that the ~~person~~ INDIVIDUAL would have earned, based on the worker's gross salary or wage amount, fee, or other compensation if the worker was not employed or engaged for a full year.

(I.3) "HEALTH-CARE PROVIDER" MEANS AN INDIVIDUAL LICENSED TO ENGAGE IN THE PRACTICE OF MEDICINE, REGISTERED TO ENGAGE IN THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING, LICENSED TO PRACTICE AS A CERTIFIED MIDWIFE, OR LICENSED TO ENGAGE IN THE PRACTICE OF DENTISTRY.

(I.4) "PRACTICE AS A CERTIFIED MIDWIFE" HAS THE MEANING SET FORTH IN SECTION 12-255-104 (7.5).

(I.5) "PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING" HAS THE MEANING SET FORTH IN SECTION 12-255-104 (8).

(I.6) "PRACTICE OF DENTISTRY" HAS THE SAME MEANING AS "DENTISTRY" SET FORTH IN SECTION 12-220-104 (6).

(I.7) "PRACTICE OF MEDICINE" HAS THE MEANING SET FORTH IN SECTION 12-240-107 (1) AND INCLUDES PRACTICE AS A PHYSICIAN ASSISTANT PURSUANT TO SECTION 12-240-113.

(d) EXCEPT FOR A COVENANT NOT TO COMPETE THAT RESTRICTS THE PRACTICE OF MEDICINE, THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING, OR THE PRACTICE OF DENTISTRY IN THIS STATE, this subsection (2) does not apply to a covenant not to solicit customers governing a ~~person~~ AN INDIVIDUAL who, at the time the covenant is entered into and at the time it is enforced, earns an amount of annualized cash compensation equivalent to or greater than sixty percent of the threshold amount for highly compensated workers, if the nonsolicitation covenant is no broader than reasonably necessary to protect the employer's legitimate interest in protecting trade secrets.

(3) The following covenants are not prohibited by subsection (2) of this section:

(b) A reasonable confidentiality provision OR TRADE SECRET PROVISION relevant to the employer's business that does not prohibit disclosure of information that arises from the worker's general training, knowledge, skill, or experience, whether gained on the job or otherwise, information that is readily ascertainable to the public, or information that a worker otherwise has a right to disclose as legally protected conduct;

(c) A covenant ~~for the purchase and sale of a business or the assets of a business;~~ ~~OR~~ NOT TO COMPETE RELATED TO THE PURCHASE AND SALE OF A BUSINESS, A DIRECT OR INDIRECT OWNERSHIP SHARE IN A BUSINESS, OR ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF A BUSINESS THAT RESTRICTS COMPETITION BY AN OWNER OF AN INTEREST IN THE BUSINESS. FOR AN INDIVIDUAL WHO OWNS A MINORITY OWNERSHIP SHARE OF THE BUSINESS AND WHO RECEIVED THEIR OWNERSHIP SHARE IN THE

BUSINESS AS EQUITY COMPENSATION OR OTHERWISE IN CONNECTION WITH SERVICES RENDERED, THE DURATION IN YEARS OF A COVENANT NOT TO COMPETE DESCRIBED IN THIS SUBSECTION (3)(c) MUST NOT EXCEED A NUMBER CALCULATED BY THE TOTAL CONSIDERATION RECEIVED BY THE INDIVIDUAL FROM THE SALE DIVIDED BY THE AVERAGE ANNUALIZED CASH COMPENSATION RECEIVED BY THE INDIVIDUAL FROM THE BUSINESS, INCLUDING INCOME RECEIVED ON ACCOUNT OF THEIR OWNERSHIP INTEREST DURING THE PRECEDING TWO YEARS OR DURING THE PERIOD OF TIME THAT THE INDIVIDUAL WAS AFFILIATED WITH THE BUSINESS, WHICHEVER PERIOD OF TIME IS SHORTER.

~~(5) (a) Any covenant not to compete provision of an employment, partnership, or corporate agreement between physicians that restricts the right of a physician to practice medicine, as defined in section 12-240-107, upon termination of the agreement, is void; except that all other provisions of the agreement enforceable at law, including provisions that require the payment of damages in an amount that is reasonably related to the injury suffered by reason of termination of the agreement, are enforceable. Provisions of a covenant not to compete that require the payment of damages upon termination of the agreement may include damages related to competition. A PROVISION OF AN EMPLOYMENT AGREEMENT OR ANY OTHER AGREEMENT ENFORCEABLE AT LAW THAT DOES NOT INCLUDE AN UNLAWFUL RESTRICTIVE COVENANT REMAINS ENFORCEABLE AND SUBJECT TO ANY DAMAGES OR EQUITABLE REMEDY OTHERWISE AVAILABLE AT LAW.~~

~~(b) Notwithstanding subsection (5)(a) of this section, after termination of an agreement described in subsection (5)(a) of this section, a physician may disclose his or her continuing practice of medicine and new professional contact information to any patient with a rare disorder, as defined in accordance with criteria developed by the National Organization for Rare Disorders, Inc., or a successor organization, to whom the physician was providing consultation or treatment before termination of the agreement. Neither the physician nor the physician's employer, if any, is liable to any party to the prior agreement for damages alleged to have resulted from the disclosure or from the physician's treatment of the patient after termination of the prior agreement.~~

(5.5) A COVENANT IS DEEMED A COVENANT THAT RESTRICTS THE PRACTICE OF MEDICINE, THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING, OR THE PRACTICE OF DENTISTRY IF IT PROHIBITS OR MATERIALLY RESTRICTS A HEALTH-CARE PROVIDER FROM DISCLOSING TO A PATIENT TO WHOM THE HEALTH-CARE PROVIDER WAS PROVIDING CONSULTATION OR TREATMENT BEFORE THE HEALTH-CARE PROVIDER'S DEPARTURE FROM A MEDICAL OR DENTAL PRACTICE THE FOLLOWING INFORMATION:

- (a) THE HEALTH-CARE PROVIDER'S CONTINUING PRACTICE OF MEDICINE;
 - (b) THE HEALTH-CARE PROVIDER'S NEW PROFESSIONAL CONTACT INFORMATION;
- OR
- (c) THE PATIENT'S RIGHT TO CHOOSE A HEALTH-CARE PROVIDER.

(9) (a) The attorney general may enforce subsections (2), (3), (4), (5.5), (6), and (8)(a) of this section.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to covenants not to compete entered into or renewed on or after the applicable effective date of this act.

Approved: June 3, 2025