

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 1754, Page 2, Section 442.404, Line 26, by inserting after all of said line the
2 following:

3
4 "442.407. 1. As used in this section, the term "covenant not to compete" means an agreement or
5 part of a contract of employment in which the covenantee agrees to refrain from competition with the
6 convenantor for a specific period of time and within a particular geographic area.

7 2. No covenant not to compete shall be enforceable if it is ancillary to or part of an otherwise
8 enforceable agreement with a health care entity owned or operated by a not-for-profit corporation which is
9 exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended,
10 and organized under the laws of this state.

11 3. A covenant entered into under this section shall:

12 (1) Not deny the physician access to a list of his or her patients whom he or she had seen or treated
13 within one year of the termination of the contract or employment;

14 (2) Provide access to medical records of the physician's patients upon authorization of the patient
15 and any copies of medical records for a reasonable fee under section 191.227;

16 (3) Provide that any access to a list of patients or to patients' medical records after termination of the
17 contract or employment shall be provided in the format that such records are maintained, except by mutual
18 consent of the parties to the contract. If the medical records are in an electronic health record format, printed
19 copies of the medical records generated from the electronic health record shall satisfy the requirements of this
20 subdivision; and

21 (4) Permit the physician to provide continuing care and treatment to a specific patient or patients
22 during the course of an acute illness even after the contract or employment has been terminated.

23 4. The provisions of this section shall only apply to any covenant entered into on or after August 28,
24 2016, by a health care entity located in a health professional shortage area designated as having a shortage of
25 primary care or mental health providers.

26 5. The provisions of this section shall not apply and a covenant not to compete shall be enforceable
27 if:

28 (1) The physician leaves the employ of the entity before the end date of the contract of employment
29 without showing breach of the terms of the contract by the entity;

30 (2) The physician is terminated for a breach of the terms of the contract;

31 (3) The physician is terminated for any other reason, but in such a case the covenant not to compete
32 shall only be enforceable for the remainder of the original contractual period; or

33 (4) The physician's work is greater than fifty percent research and less than fifty percent patient care
34 activity.

35 6. No health care entity subject to subsection 2 of this section shall deny medical staff privileges for a
36 physician solely because such physician's employment contract has expired."; and

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38 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____