

1 SENATE BILL 325

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Stuart Ingle

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10 AN ACT

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

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

15 SECTION 1. [NEW MATERIAL] DEFINITIONS.--As used in this  
16 act:

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

19 B. "health care practitioner" means:

20 (1) a dentist;

21 (2) an osteopathic physician;

22 (3) a physician;

23 (4) a podiatrist; and

24 (5) a certified registered nurse anesthetist.

25 SECTION 2. [NEW MATERIAL] ENFORCEABILITY OF A NON-COMPETE

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

5 A. the agreement;

6 B. a renewal or extension of the agreement; or

7 C. a health care practitioner's employment with a  
8 party seeking to enforce the agreement.

9 SECTION 3. [NEW MATERIAL] ENFORCEABILITY OF OTHER

10 PROVISIONS.--Nothing in this act shall be construed to limit  
11 the enforceability of:

12 A. a provision in an agreement requiring a health  
13 care practitioner who has worked for an employer for an initial  
14 period of less than two years to repay all or a portion of:

15 (1) a loan;

16 (2) relocation expenses;

17 (3) a signing bonus or other remuneration to  
18 induce the health care practitioner to relocate or establish a  
19 health care practice in a specified geographic area; or

20 (4) recruiting, education and training  
21 expenses;

22 B. a nondisclosure provision relating to  
23 confidential information and trade secrets;

24 C. a nonsolicitation provision with respect to  
25 patients and employees of the party seeking to enforce the

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1 agreement for a period of one year or less after the last date  
2 of employment; or

3 D. any other provision of an agreement that is not  
4 in violation of law, including a provision for liquidated  
5 damages.

6 SECTION 4. [NEW MATERIAL] LIQUIDATED DAMAGES.--

7 A. An agreement may provide for liquidated damages  
8 in an amount that is reasonable at the time the agreement is  
9 executed and in light of anticipated harm and difficulty of  
10 proving the amount of loss resulting from breach of the  
11 agreement by any party.

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

14 SECTION 5. [NEW MATERIAL] APPLICABILITY.--

15 A. This act does not apply to a health care  
16 practitioner who is a shareholder, owner, partner or director  
17 of a health care practice against whom a party to an agreement  
18 seeks to enforce a non-compete provision.

19 B. The provisions of this act apply to agreements,  
20 or renewals or extensions of agreements, executed on or after  
21 July 1, 2015.