

1 **REGULATION OF NONCOMPETE AGREEMENTS**
2 **IN MEDICAL PRACTICES**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Rosalind J. McGee**

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Utah Medical Practice Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ prohibits a noncompetition clause in a contract or agreement which creates an
- 14 employment, partnership, or professional relationship with a physician; and
- 15 ▶ applies to contracts entered into after the effective date of this bill.

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 ENACTS:

22 **58-67-804**, Utah Code Annotated 1953

24 *Be it enacted by the Legislature of the state of Utah:*

25 Section 1. Section **58-67-804** is enacted to read:

26 **58-67-804. Restrictive covenants unenforceable upon physicians.**

27 (1) For purposes of this section:



28 (a) "Any restriction of the right of the physician to practice medicine":
29 (i) includes:
30 (A) compensation in the form of liquidated damages, that are payable under a contract
31 that prohibits the physician from competing with the physician's employer or practicing
32 medicine in a particular geographic area;
33 (B) nonpayment or retention of money or property that is earned or owned by the
34 physician at the time of the dissolution of the contract; or
35 (C) other restrictions intended to have a significant inhibitory effect on a physician's
36 ability to practice in a particular geographic area; and
37 (ii) does not include:
38 (A) recouping expenses, incurred by a physician's employer in recruiting or employing
39 the physician, such as:
40 (I) moving expenses;
41 (II) licensing costs;
42 (III) sign-on bonuses;
43 (IV) loans; or
44 (V) other expenses incurred by or on behalf of the physician for which the contract
45 specifies the physician is responsible if the contract is breached by the physician; and
46 (B) an agreement between a physician and a physician's employer which prohibits a
47 physician from soliciting patients who the physician treated while under contract with the
48 physician's employer, as long as the nonsolicitation agreement does not prevent a patient from
49 receiving medical care from a physician of the patient's choice.
50 (b) "Contract" means an agreement which creates or establishes the terms of a
51 partnership, employment, independent contractor relationship, or any other form of a
52 professional relationship with a physician.
53 (c) "Physician's employer" includes any entity that enters into a contract with a
54 physician.
55 (2) Any contract with a physician licensed to practice medicine pursuant to this
56 chapter, which includes any restriction of the right of the physician to practice medicine in any
57 geographic area for any period of time after the termination of the contract shall be void and
58 unenforceable with respect to the restriction; provided, however, that nothing in this section

59 shall render void or unenforceable the remaining provisions of the contract.

60 (3) This section applies to any contract that is entered into or renewed after May 3,

61 2005.

Legislative Review Note

as of 1-3-05 1:11 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0106

Regulation of Noncompete Agreements in Medical Practices

14-Feb-05

2:04 PM

State Impact

No fiscal impact.

Individual and Business Impact

Enforcement is by private right of action.

Office of the Legislative Fiscal Analyst