

Katy Hall proposes the following substitute bill:

Healthcare Worker Post-employment Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor:

LONG TITLE

General Description:

This bill amends provisions relating to a non-compete agreement for a healthcare worker.

Highlighted Provisions:

This bill:

- defines terms;
- makes void a non-compete agreement entered into between an employer and a healthcare worker;
- makes void a nonsolicitation agreement between a person and a healthcare worker under certain circumstances; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-51-102, as last amended by Laws of Utah 2018, Chapter 465

34-51-201, as last amended by Laws of Utah 2019, Chapter 132

34-51-202, as enacted by Laws of Utah 2016, Chapter 153

34-51-301, as enacted by Laws of Utah 2016, Chapter 153

34A-5-114, as last amended by Laws of Utah 2025, Chapters 173, 425

ENACTS:

34-51-203, Utah Code Annotated 1953

REPEALS:

34-51-101, as enacted by Laws of Utah 2016, Chapter 153

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

Section 1. Section **34-51-102** is amended to read:

34-51-102 . Definitions.

As used in this chapter:

- (1) "Broadcasting employee" means an employee of a broadcasting company.
- (2) "Broadcasting company" means a person engaged in the business of:
 - (a) distributing or transmitting electronic or electromagnetic signals to the general public using one or more of the following:
 - (i) television;
 - (ii) cable; or
 - (iii) radio; or
 - (b) preparing, developing, or creating one or more programs or messages for distribution or transmission by means described in Subsection (2)(a).
- (3) "Exempt broadcasting employee" means a broadcasting employee who is compensated on a salary basis, as defined in 29 C.F.R. Sec. 541.602, at a rate equal to or greater than the greater of:
 - (a) \$913 per week, or an equivalent amount if calculated for a period longer than one week; or
 - (b) the rate at which an employee qualifies as exempt under the Fair Labor Standards Act, 29 U.S.C. Sec. 213(a) on a salary basis as defined in 29 C.F.R. Part 541.
- (4) "Healthcare non-compete agreement" means an agreement between a person and a healthcare worker within which the healthcare worker agrees that, after the day on which the healthcare worker no longer works for or with the person, the healthcare worker will not engage in a service that the healthcare worker may provide under the scope of the healthcare worker's license:
 - (a) for a restricted period of time; or
 - (b) within a specific geographic area.
- (5) "Healthcare worker" means an individual licensed and practicing as:
 - (a) an advanced practice registered nurse intern under Title 58, Chapter 31b, Nurse Practice Act;
 - (b) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;
 - (c) an advanced practice registered nurse - CRNA without prescriptive practice under

Title 58, Chapter 31b, Nurse Practice Act;

- (d) an associate marriage and family therapist under Section 58-60-304;
- (e) a behavioral health coach under Section 58-60-603;
- (f) a behavioral health technician under Section 58-60-603;
- (g) a certified dietitian as that term is defined in Section 58-49-2;
- (h) a certified psychology resident under Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act;
- (i) a certified social worker under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;
- (j) a clinical mental health counselor under Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act;
- (k) a clinical social worker under Title 58, Chapter 60, Part 2, Social Worker Licensing Act;
- (l) a dentist as that term is defined in Section 58-69-102;
- (m) a genetic counselor as that term is defined in Section 58-75-102;
- (n) a licensed assistant behavior analyst under Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act;
- (o) a licensed behavior analyst under Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act;
- (p) a licensed massage therapist as that term is defined in Section 58-47b-102;
- (q) a licensed practical nurse under Title 58, Chapter 31b, Nurse Practice Act;
- (r) a marriage and family therapist under Section 58-60-304;
- (s) a medication aide certified as that term is defined in Section 58-31b-102;
- (t) a mental health therapist as that term is defined in Section 58-60-102;
- (u) a naturopathic physician as that term is defined in Section 58-71-102;
- (v) a nurse midwife as that term is defined in Section 58-44a-102;
- (w) an optometrist as that term is defined in Section 58-16a-102;
- (x) a physical therapist under Section 58-24b-302;
- (y) a physician as that term is defined in Section 58-68-102;
- (z) a physician assistant as that term is defined in Section 58-70a-102;
- (aa) a psychologist under Section 58-61-301;
- (bb) a podiatric physician under Section 58-5a-301;
- (cc) a radiology practitioner as that term is defined in Section 58-54-102;
- (dd) a registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(ee) a respiratory care practitioner as that term is defined in Section 58-57-2;

(ff) a social service worker under Title 58, Chapter 60, Part 2, Social Worker Licensing Act; or

(gg) a substance use disorder counselor under Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act.

(6) "Nonsolicitation agreement" means an agreement, between a person and an individual who works for or with the person, in which the individual agrees that on or after the day on which the individual no longer works for or with the person, the individual will not solicit the person's clients, customers, or employees.

[(4)] (7)(a) ~~["Post-employment restrictive covenant," also known as a "covenant not to compete" or "noncompete agreement,"]~~ "Non-compete agreement" means an agreement, written or oral, between an employer and employee under which the employee agrees that on or after the day on which the employer no longer employs the employee, the employee, either alone or as an employee of another person, will not compete with the employer in providing [products, processes, or services] a product, process, or service that [are] is similar to the employer's [products, processes, or services] product, process, or service.

(b) ~~["Post-employment restrictive covenant"]~~ "Non-compete agreement" does not include[nonsolicitation agreements or nondisclosure or confidentiality agreements:] :

(i) a nonsolicitation agreement;

(ii) a nondisclosure agreement; or

(iii) a confidentiality agreement.

[(5)] (8) "Sale of a business" means a transfer of the ownership by sale, acquisition, merger, or other method of the tangible or intangible assets of a business entity, or a division or segment of the business entity.

Section 2. Section **34-51-201** is amended to read:

34-51-201 . Non-compete agreements.

(1)(a) Except as provided in Subsection (2) and in addition to any requirements imposed under common law, for a ~~[post-employment restrictive covenant]~~ non-compete agreement entered into on or after May 10, 2016, an employer and an employee may not enter into a ~~[post-employment restrictive covenant]~~ non-compete agreement for a period of more than one year from the day on which the employee is no longer employed by the employer.

(b) On or after May 6, 2026, a person and a healthcare worker may not enter into a

healthcare non-compete agreement.

(c) ~~[-]A [post-employment restrictive covenant]~~ non-compete agreement that violates this [subsection] Subsection (1) is void.

(2)(a) Subject to Subsection (2)(b), a ~~[post-employment restrictive covenant]~~ non-compete agreement between a broadcasting company and a broadcasting employee is valid only if:

(i) the broadcasting employee is an exempt broadcasting employee;

(ii) the ~~[post-employment restrictive covenant]~~ non-compete agreement is part of a written employment contract of reasonable duration, based on industry standards, the position, the broadcasting employee's experience, geography, and the parties' unique circumstances; and

(iii)(A) the broadcasting company terminates the broadcasting employee for cause; or

(B) the broadcasting employee breaches the employment contract in a manner that results in the broadcasting employee no longer being employed by the broadcasting company.

(b) A ~~[post-employment restrictive covenant]~~ non-compete agreement described in Subsection (2)(a) is enforceable for no longer than the earlier of:

(i) one year after the day on which the broadcasting employee is no longer employed by the broadcasting company; or

(ii) the day on which the original term of the employment contract containing the ~~[post-employment restrictive covenant]~~ non-compete agreement ends.

(c) A ~~[post-employment restrictive covenant]~~ non-compete agreement between a broadcasting company and a broadcasting employee that does not comply with this [subsection] Subsection (2) is void.

(3) Nothing in this section affects an agreement that is not a:

(a) non-compete agreement; or

(b) healthcare non-compete agreement.

Section 3. Section **34-51-202** is amended to read:

34-51-202 . Exceptions.

(1) This chapter does not prohibit[-] :

(a) a reasonable severance agreement mutually and freely agreed upon in good faith at or after the time of termination that includes a ~~[post-employment restrictive covenant]~~. A severance agreement remains subject to any requirements imposed under common

law.] non-compete agreement; or
[(2)] (b) [This chapter does not prohibit a post-employment restrictive covenant] a
non-compete agreement related to or arising out of the sale of a business, if the
individual subject to the [restrictive covenant] non-compete agreement receives value
related to the sale of the business.

(2) Notwithstanding Subsection (1)(a), a severance agreement remains subject to any
requirements imposed under common law.

Section 4. Section **34-51-203** is enacted to read:

34-51-203 . Nonsolicitation agreements.

(1) On or after May 6, 2026, a person and a healthcare worker may not enter into
nonsolicitation agreement that prevents a healthcare worker from informing a patient of
any of the following:

- (a) the healthcare worker's current place of employment; or
- (b) the healthcare worker's future place of employment.

(2) A nonsolicitation agreement that violates Subsection (1) is void.

Section 5. Section **34-51-301** is amended to read:

**34-51-301 . Award of arbitration costs, attorney fees and court costs, and
damages.**

If an employer seeks to enforce a [post-employment restrictive covenant] non-compete
agreement through arbitration or by filing a civil action and it is determined that the [
post-employment restrictive covenant] non-compete agreement is unenforceable, the employer
is liable for the employee's:

- (1) costs associated with arbitration;
- (2) attorney fees and court costs; and
- (3) actual damages.

Section 6. Section **34A-5-114** is amended to read:

**34A-5-114 . Limitations on enforceability of nondisclosure and
non-disparagement clauses -- Retaliation prohibited.**

(1) As used in this section:

- (a) "Confidentiality clause" means a nondisclosure clause or a non-disparagement clause.
- (b) "Employee" means a current or a former employee.
- (c) "Nondisclosure clause" means an agreement between an employee and employer that
prevents, or has the effect of preventing, an employee from disclosing or discussing:
 - (i) sexual assault;

- 199 (ii) allegations of sexual assault;
200 (iii) sexual harassment; or
201 (iv) allegations of sexual harassment.
- 202 (d) "Non-compete agreement" means the same as that term is defined in Section
203 34-51-102.
- 204 ~~[(d)]~~ (e) "Non-disparagement clause" means an agreement between an employee and
205 employer that prohibits, or has the effect of prohibiting, an employee from making a
206 negative statement that is:
207 (i) about the employer; and
208 (ii) related to:
209 (A) a claim of sexual assault or sexual harassment;
210 (B) a sexual assault dispute; or
211 (C) a sexual harassment dispute.
- 212 ~~[(e) "Post-employment restrictive covenant" means the same as that term is defined in~~
213 ~~Section 34-51-102.]~~
- 214 (f) "Proprietary information" means an employer's business plan or customer
215 information.
- 216 (g) "Retaliate" means taking an adverse action against an employee because the
217 employee made an allegation of sexual harassment or assault, including:
218 (i) discharge;
219 (ii) suspension;
220 (iii) demotion; or
221 (iv) discrimination in the terms, conditions, or privileges of employment.
- 222 (h)(i) "Sexual assault" means:
223 (A) conduct that would constitute a violation of 18 U.S.C. Secs. 2241 through
224 2244; or
225 (B) criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.
226 (ii) "Sexual assault" does not include criminal conduct described in:
227 (A) Section 76-5-417, enticing a minor;
228 (B) Section 76-5-418, sexual battery;
229 (C) Section 76-5-419, lewdness; or
230 (D) Section 76-5-420, lewdness involving a child.
- 231 (i) "Sexual assault dispute" means a dispute between an employer and the employer's
232 employee relating to alleged sexual assault.

(j) "Sexual harassment" means harassment on the basis of sex, sexual orientation, or gender, as prohibited in:

(i) Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.; or

(ii) Subsection 34A-5-106(1)(a)(i).

(k) "Sexual harassment dispute" means a dispute between an employer and the employer's employee relating to alleged sexual harassment.

(2)(a) A confidentiality clause regarding sexual misconduct, as a condition of employment, is against public policy and is void and unenforceable.

(b) After an employee makes an allegation of sexual harassment or sexual assault, an employer of any sized business, regardless of Subsection 34-5-102(1)(i)(D):

(i) may not retaliate against the employee because the employee made an allegation of sexual harassment or assault; or

(ii) may not retaliate based on an employee's refusal to enter into a confidentiality clause or an employment contract that, as a condition of employment, contains a confidentiality clause.

(c) An employee may, within three business days after the day on which the employee agrees to a settlement agreement that includes a confidentiality clause regarding sexual misconduct, withdraw from the settlement agreement.

(3) An employer who attempts to enforce a confidentiality clause in violation of this section:

(a) is liable for all costs, including reasonable attorney fees, resulting from legal action to enforce the confidentiality clause; and

(b) is not entitled to monetary damages resulting from a breach of a confidentiality clause.

(4) This section does not:

(a) prohibit an agreement between an employee who alleges sexual assault or sexual harassment and an employer from containing a nondisclosure clause, a non-disparagement clause, or any other clause prohibiting disclosure of:

(i) the amount of a monetary settlement; or

(ii) at the request of the employee, facts that could reasonably lead to the identification of the employee;

(b) prohibit an employer from requiring an employee to:

(i) sign a [~~post-employment restrictive covenant~~] non-compete agreement; or

(ii) agree not to disclose an employer's non-public trade secrets, proprietary information, or confidential information that does not involve illegal acts;

(c) authorize an employee to:

(i) disclose data otherwise protected by law or legal privilege; or

(ii) knowingly make statements or disclosures that are false or made with reckless disregard of the truth;

(d) prohibit an employee from discussing sexual misconduct or allegations of sexual misconduct in a civil or criminal case when subpoenaed if the sexual misconduct or allegations of sexual misconduct are against the individual whom the employee alleged engaged in sexual misconduct;

(e) permit a disclosure that would violate state or federal law; or

(f) limit other grounds that may exist at law or in equity for the unenforceability of a confidentiality clause.

Section 7. Repealer.

This bill repeals:

Section **34-51-101, Title.**

Section 8. Effective Date.

This bill takes effect on May 6, 2026.