



The Hospital + Healthsystem
Association of Pennsylvania

Leading for Better Health

October 21, 2024

Mr. Barry Buckingham
Pennsylvania Health Care Cost Containment Council
225 Market Street, Suite 400
Harrisburg, PA 17101

Email: publiccomment@phc4.org

Dear Mr. Buckingham:

The [*Fair Contracting for Health Care Practitioners Act, \(Act 74 of 2024\)*](#) effective January 1, 2025, specifically addresses the use of restrictive covenants/non-competes in employment contracts and includes new patient notification requirements in Pennsylvania. The legislation requires the Pennsylvania Health Care Cost Containment Council (PHC4) to conduct a study on the effects of the Act, and report findings to the General Assembly by January 1, 2028.

On behalf of The Hospital and Healthsystem Association of Pennsylvania (HAP), which represents approximately 235 member hospitals, we appreciate the opportunity to provide input to help inform the PHC4 analysis.

HAP and our member hospitals raised significant concerns about the potentially negative impacts of this legislation as it was being considered. Workforce and staffing challenges across the commonwealth have been well-documented. Many Pennsylvania hospitals continue to operate on negative or very thin margins; allowing a process that makes it harder to retain physicians will increase hospital costs and potentially jeopardize patients' access to care.

Non-competes have historically been used to protect an employer's investment in training. While the elimination of restrictive covenants may increase workforce mobility, it is likely to diminish a hospital or health care system's ability to retain talent. This result is the exact opposite of federal and state efforts to help hospitals recruit and retain talent. This is one area that might warrant a study.

A related concern is that in certain specialties where there are only one or two providers serving a large geographic area, a hospital or health system may not be able to maintain that specialty if a physician leaves. Not only will that impact the hospital or health system's network of care (with potentially significant financial implications for risk contracts), it could also affect the employment of the staff who supported that specialty. Obstetric services are at particular risk in Pennsylvania.



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Another, and perhaps even more compelling, concern is that frequent physician moves between employers will be confusing and difficult for patients. Hospitals will share the information they have and assist patients as they navigate these transitions, however, each practice/hospital/health system contracts individually with insurance plans. If a physician moves between local practices, patients who want to follow the physician may find that the new employer does not take their current insurance. Moreover, patients whose scheduled appointments are cancelled because of a physician departure may have to wait much longer to get care at the new location; or, they could face significant delays even if they stay with the first practice because that practice is now minus a physician. This could be another area for study.

Finally, allowing physicians to easily move between employers is likely to drive up the cost of labor. As previously noted, staffing in general is difficult, and competition for physicians is strong. This legislation enables physicians to move between employers every few years, negotiating more money (with new signing bonuses) each time. On a statewide basis, that will drive up the cost of health care. This should be tracked closely over time.

Thank you for your consideration of these important factors as you develop PHC4's study. Please don't hesitate to reach out to me with any questions.

Sincerely,

Jolene H. Calla, Esq.
Vice President, Finance and Legal Affairs