

Chapter 378

(House Bill 1388)

AN ACT concerning

**Labor and Employment – Noncompete and Conflict of Interest ~~Clauses~~ Clauses
for Veterinary and Health Care Professionals and Study of the Health Care
Market**

FOR the purpose of applying to certain veterinary and health care professionals certain provisions of law stating that certain noncompete and conflict of interest provisions in certain employment contracts are null and void as being against the public policy of the State; establishing certain prohibitions regarding noncompete and conflict of interest provisions for certain health care employment contracts and similar documents and agreements; requiring the Maryland Health Care Commission to contract with a private consultant to study certain issues related to the health care market in the State; applying this Act retroactively; and generally relating to ~~noncompete and conflict of interest clauses in employment contracts~~ employment of veterinary and health care professionals.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 3–716
Annotated Code of Maryland
(2016 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Labor and Employment

3–716.

(a) (1) This ~~section~~ SUBSECTION applies:

(i) to an employment contract or a similar document or agreement concerning:

1. an employee who earns equal to or less than 150% of the State minimum wage rate established under § 3–413 of this title; ~~OR~~

2. EMPLOYMENT IN A POSITION FOR WHICH THE EMPLOYEE:

A. IS REQUIRED TO BE LICENSED;

~~A.~~ UNDER THE HEALTH OCCUPATIONS ARTICLE; ~~OR~~

B. IS EMPLOYED IN A POSITION THAT PROVIDES DIRECT PATIENT CARE; AND

C. EARNS EQUAL TO OR LESS THAN \$350,000 IN TOTAL ANNUAL COMPENSATION; OR

~~B. 3. AS AN EMPLOYEE LICENSED AS~~ A VETERINARY PRACTITIONER OR VETERINARY TECHNICIAN UNDER TITLE 2, SUBTITLE 3 OF THE AGRICULTURE ARTICLE; and

(ii) whether or not the employer and employee entered into the employment contract or similar document or agreement in the State.

(2) This ~~section~~ SUBSECTION does not apply to an employment contract or a similar document or agreement with respect to the taking or use of a client OR PATIENT list or other proprietary client-related OR PATIENT-RELATED information.

~~(b)~~ (3) A noncompete or conflict of interest provision in an employment contract or a similar document or agreement that restricts the ability of an employee to enter into employment with a new employer or to become self-employed in the same or similar business or trade shall be null and void as being against the public policy of the State.

(B) (1) THIS SUBSECTION APPLIES ONLY TO AN EMPLOYMENT CONTRACT OR SIMILAR DOCUMENT OR AGREEMENT CONCERNING EMPLOYMENT IN A POSITION FOR WHICH THE EMPLOYEE:

(I) IS REQUIRED TO BE LICENSED UNDER THE HEALTH OCCUPATIONS ARTICLE;

(II) IS EMPLOYED IN A POSITION THAT PROVIDES DIRECT PATIENT CARE; AND

(III) EARNS MORE THAN \$350,000 IN TOTAL ANNUAL COMPENSATION.

(2) (I) THE PERIOD FOR WHICH A NONCOMPETE OR CONFLICT OF INTEREST PROVISION IN AN EMPLOYMENT CONTRACT OR SIMILAR DOCUMENT OR AGREEMENT IS IN EFFECT MAY NOT EXCEED 1 YEAR FROM THE LAST DAY OF EMPLOYMENT.

(II) THE GEOGRAPHICAL RESTRICTION IN A NONCOMPETE OR CONFLICT OF INTEREST PROVISION IN AN EMPLOYMENT CONTRACT OR SIMILAR DOCUMENT OR AGREEMENT MAY NOT EXCEED 10 MILES FROM THE PRIMARY PLACE OF EMPLOYMENT.

(3) ON REQUEST OF A PATIENT, AN EMPLOYER OF AN EMPLOYEE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE NOTICE TO A PATIENT OF THE NEW LOCATION WHERE A FORMER EMPLOYEE WILL BE PRACTICING.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect an employment contract or a similar contract or agreement entered into on or before the effective date of this Act.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Health Care Commission shall contract with a private consultant to study, in consultation with relevant stakeholders:

(1) the effect of private equity firms on the health care market in the State, including:

(i) the impact on the State's ability to meet the goals and objectives of the Total Cost of Care Model; and

(ii) the impact on efforts to address health disparities and social determinants of health;

(2) the payer mix for physician practices and groups with private equity ownership;

(3) the impact of hospital consolidations on physician practices;

(4) the acquisition of physician practices; and

(5) the impact on the ability of nonprofit hospitals and health systems to maintain access to care, including the ability to hire and retain physicians.

(b) On or before January 1, 2025, the Commission shall report on the findings and recommendations from the study required under subsection (a) of this section to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That § 3-716(a)(1)(i)2 and (b) of the Labor and Employment Article, as enacted by Section 1 of this Act, shall be construed to apply only to employment contracts or similar documents or agreements for employment executed on or after July 1, 2025.

SECTION ~~3~~ 2. 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ June 1, 2024.

Approved by the Governor, April 25, 2024.