

March 28, 2024

Maryland Senate Finance Committee
Miller Senate Office Building

Re: Favorable Comments on HB 1388 Labor and Employment – Noncompete and Conflict of Interest Clauses – Veterinary and Health Care Professionals

I, Christopher Caniglia, Doctor of Veterinary Medicine, Diplomat of the American College of Veterinary Surgeons Large Animal, am pleased to submit these comments on Maryland HB 1388 to prohibit non-competes in human and veterinary medicine.

As a veterinarian and board certified surgeon, I strongly support the proposed rule. In the profession, non-compete agreements are extremely common and restrictive with respect to the geographic radius and duration. Non-competes are detrimental to the veterinary profession for several reasons: (1) They force talented vets to relocate to seek other employment opportunities or leave the profession entirely, (2) they strain the fundamental oath to do no harm and uphold the standard of care for their patients, (3) they contribute to the rising mental health crisis in the profession, and (4) they violate public policy and are against the public interest. Furthermore, non-competes do not serve the purpose that hospitals and practice owners are trying to achieve and confidentiality agreements, non-solicitation clauses, and return of service agreements are better tools to serve these financial interests.

I. Non-competes force veterinarians out of a profession that is facing dire shortages

According to the American Association of Equine Practitioners, there is a severe shortage of equine veterinarians. Only 1.3% of graduating veterinarians go into equine practice, 50% of those individuals leave the profession within 5 years, either switching to small animal practice or quitting veterinary medicine altogether. Non-compete agreements contribute to this exodus because when veterinarians leave a practice they are faced with the decision of changing careers to stay in their community or moving far away to still practice veterinary medicine. Either way the local community loses a provider. This leads to increased strain and stress on the veterinarians still in the profession which undoubtedly is a factor in the high suicide rate in the profession. I was the only boarded large animal surgeon in Maryland that received emergency surgeries and currently due to my non-compete, the state has lost this service and animal owners must now travel out of state to receive this care.

In Maryland, there are 3,295 licensed veterinarians with an estimated 2,900 actively practicing. While an exact number of domestic animals is hard to determine, combining data from the US Census 2023, the USDA-NASS 2022 State Agriculture Overview for Maryland, and the Maryland Horse Industry Board 2020 Report, there are over 1.9 million domestic animals in Maryland (and over 270 million animals if production chickens are included). This is a huge population for 2,900 veterinarians to provide care. Maryland has the most horses per square mile of any state in the country with around 100,000 horses in the state, but despite this there are only approximately 73 equine veterinarians in Maryland. This shortage leads to a doctor-patient ratio of over 1 to 1300. Forcing veterinarians who are willing to do this work out of geographical

areas due to non-competes strains this shortage further, places additional stress on the remaining veterinarians, and animal welfare suffers.

II. Non-competes strain the fundamental oath to do no harm

Doctors and veterinarians alike take oaths to do no harm and uphold the standard of care. When hospital administrators or a veterinarian that owns a practice are making decisions or performing actions that are compromising patient care, the doctors and veterinarians that are their employees are obligated by their oath and moral compass to speak up to correct the problem.

This dynamic, coupled with a non-compete clause, results in fear of retaliation from the employer. The employer could terminate them and enforce a non-compete agreement simply for the doctor or veterinarian upholding their oath to their profession.

Furthermore, the doctor or veterinarian may decide that they no longer wish to be associated with substandard care due to their own conscience and liability. If they have a non-compete agreement, then the employer is denying them this right to not be associated with substandard medical care. In the medical field, substandard care can have serious consequences, including death of the patient. Any doctor or veterinarian has the right to not be associated with that and that right should not be tied to where they are able to work and live.

I and many other doctors and veterinarians are faced with the dilemma of staying in an environment that is providing substandard care to patients. This presents serious consequences, including death to patients, hostile retaliation, and being forced to relocate family and children in order to make a living.

III. Non-competes contribute to the rising mental health crisis in our profession

The veterinary suicide rate is four times that of the general population and 70% of veterinarians have had a colleague or peer die by suicide. Eighty percent of all veterinarians suffer from clinical depression at some point. There is a Facebook support group for suicide prevention in the profession called Not One More Vet. You have to be a veterinarian to be a member of this profession and there are over 30,000 members. For some perspective there approximately 80,000 veterinarians in the United States. Almost half of the veterinarians in the country are a member of this group – this is a crisis. The job of providing health care to humans or animals is difficult in so many ways – no one needs a non-compete restricting them if they are unhappy in their work environment. This feeling of being trapped or pursued legally certainly contributes to these disturbing mental health statistics. Passing HB 1388 will not only improve the care of patients, it will save some veterinarian's life by allowing them to leave their place of employment rather than taking their own life.

IV. Non-competes in health care violate public policy and are against the public interest

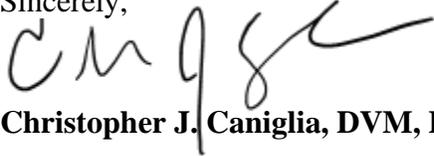
Non-compete agreements involve 3 parties - the employer, the doctor and the general public, only the public never agreed to only use the doctor if they worked for a certain practice and have thus been forced into a contract they did not sign. The Supreme Court has held that the Contract

Clause of the Constitution does not prevent states from enacting laws to protect the welfare of their citizens (*Home Building & Loan Assn. v. Blaisdell*, 290 U.S. 398). Maryland common law has long established that any non-compete agreement that is deemed against the public policy can be deemed void and unenforceable. By infringing on the rights of citizens to seek the health care of their choosing, limiting access to care in areas of critical shortage and jeopardizing the standard of care, non-competes in human and veterinary health care violate the public interest. Since the legislature represents the public interest, establishing non-competes as a violation to public policy through legislation is urgently needed.

The Declaration of Independence established the unalienable rights to life, liberty, and the pursuit of happiness in the country. Non-competes violate every citizen's right to life by directly negatively impacting their access to health care. They violate the right to liberty and pursuit of happiness of health care professionals by forcing them into situations where their oath to their profession to put patient care above all else is strained by toxic work environments that jeopardize patient care. An employer is disregarding the public interest by attempting to control the public's choice through a non-compete against a veterinarian or doctor. I humbly ask that the Maryland State Legislature pass HB 1388 to improve human and veterinary health care for all the citizens of Maryland.

Thank you for the opportunity to share my views.

Sincerely,

A handwritten signature in black ink, appearing to read 'CJ Caniglia', written over a solid black rectangular redaction box.

Christopher J. Caniglia, DVM, DACVS-LA