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**HOUSE BILL 1173**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Carlyle, Reykdal, and Stanford

AN ACT Relating to protecting the physician-patient relationship by limiting the use of unreasonable noncompete agreements; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.71 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature intends to limit the use of noncompete agreements in the medical field to protect the physician-patient relationship and to ensure reasonable access to care.

(a) The American medical association code of medical ethics recognizes that noncompete agreements restrict competition, can disrupt continuity of care, and may limit access to care. The American medical association discourages agreements that unreasonably restrict the right of a physician to practice medicine for a period of time or in a geographic area and that do not make reasonable accommodation for a patient's choice of physician.

(b) The relationship between a patient and his or her physician is critical, and in most cases it must take precedence over a medical institution's financial interests. A disruption in the physician-patient relationship is especially harmful in medical specialties that are relationship-based, such as primary care and psychiatry.

(c) Unreasonable noncompete agreements effectively remove physicians from the workforce, curtailing patient access to care and exacerbating physician shortages. Because of this effect on access to care, noncompete agreements conflict with the responsibility of medical institutions to train new physicians and to enable those physicians to serve patients in the community.

(2) The legislature therefore intends to shift the balance of power by prohibiting restrictions on when and where a physician may practice medicine and by requiring a medical institution to show a specific financial harm in order to disrupt the physician-patient relationship.

NEW SECTION. **Sec.**  A new section is added to chapter 18.57 RCW to read as follows:

(1) A provision in an employment or other professional contract that restricts the right of a person licensed under this chapter to practice osteopathic medicine in a geographic area for a period of time after the termination of the contract is void and unenforceable.

(2) Nothing in this section prohibits an employment or other professional contract from providing for damages in an amount reasonably related to the injury suffered due to termination of the contract. The injured party has the burden of establishing the reasonableness of the damages with clear and convincing evidence. Unreasonably large damages are void as a penalty.

(3) For purposes of this section, "employment or other professional contract" means a contract that establishes the terms of a partnership, employment, or other form of professional relationship with a person licensed under this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 18.71 RCW to read as follows:

(1) A provision in an employment or other professional contract that restricts the right of a person licensed under this chapter to practice medicine in a geographic area for a period of time after the termination of the contract is void and unenforceable.

(2) Nothing in this section prohibits an employment or other professional contract from providing for damages in an amount reasonably related to the injury suffered due to termination of the contract. The injured party has the burden of establishing the reasonableness of the damages with clear and convincing evidence. Unreasonably large damages are void as a penalty.

(3) For purposes of this section, "employment or other professional contract" means a contract that establishes the terms of a partnership, employment, or other form of professional relationship with a person licensed under this chapter.

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