

SECOND REGULAR SESSION

SENATE BILL NO. 713

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SINGLETON.

Pre-filed December 1, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2660S.011

AN ACT

To amend chapter 334, RSMo, by adding thereto one new section relating to physicians.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 334, RSMo, is amended by adding thereto one new section, to be known as section 334.113, to read as follows:

334.113. 1. As used in this section, a "covenant not to compete" means an agreement or part of a contract of employment in which the covenantee agrees for a specific period of time and within a particular area to refrain from competition with the covenantor.

2. A covenant not to compete is not enforceable if it is ancillary to or part of an otherwise enforceable agreement with a not-for-profit hospital organized under chapter 81, 82, 96, 205, 206 or 355, RSMo.

3. Except as provided in subsection 2 of this section, a covenant not to compete is enforceable against a person licensed as a physician by the Missouri state board of registration for the healing arts pursuant to this chapter if it is ancillary to or part of an otherwise enforceable agreement with a health carrier as defined in section 376.1350, RSMo, at the time the agreement is made to the extent that it contains limitations as to time, geographical area, and scope of activity to be restrained that are reasonable and do not impose a greater restraint than is necessary to protect the goodwill or other business interest of the physician.

4. A covenant entered into pursuant to this section shall:

(1) Not deny the physician access to a list of his patients whom he had seen or treated within one year of termination of the contract or employment;

(2) Provide access to medical records of the physician's patients upon authorization of the patient and any copies of medical records for a reasonable fee pursuant to section 191.227, RSMo;

(3) Provide that any access to a list of patients or to patients' medical records after termination of the contract or employment shall be provided in the format that such records are maintained except by mutual consent of the parties to the contract;

(4) Provide for a buy out of the covenant by the physician at a reasonable price or, at the option of either party, as determined by a mutually agreed upon arbitrator whose decision shall be binding on the parties or, in the case of an inability to agree, an arbitrator of the court whose decision shall be binding on the parties; and

(5) Permit the physician to provide continuing care and treatment to a specific patient or patients during the course of an acute illness even after the contract or employment has been terminated.

5. This section applies to a covenant entered into on or after August 28, 2002.

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