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Indiana Considers New Restrictions On Non-Compete Covenants For Physicians

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Indiana's legislature is considering a law that would limit the scope of all physician non-competes starting July 1, 2020. Following a trend affecting a growing number of states, the proposed law applies to all physician restrictive covenants signed on or after July 1, 2020. The key elements of the proposed law, [HB 1115](#), include the following:

The health care provider would allow the physician to provide continuing care or treatment to patients with an acute illness that the physician treated before leaving

Upon the physician's departure, the physician would receive a copy of any notice regarding the departure that would have been sent to any patients treated by the physician in the previous two years

The physician's then-current contact information would be given to patients who request it and who were treated within the previous two years

Allow the physician access to, or copies of any medical records (if the patient consents)

Give departing physicians the option to buy-out a non-competes for a "reasonable price" as agreed upon by the parties or, if they cannot agree, as determined by an arbitrator or a court

The bill still has some legislative hoops to jump through before it becomes

law, so there is no guarantee it will be implemented. However, it does raise a few interesting issues.

One, Indiana would join a growing list of states tightening restrictions on physician non-competes.

Two, the language of the proposed law clearly is geared to physicians who regularly treat patients (notice all the requirements about ongoing treatment issues); however, the bill mandates that all physician non-competes contain these terms—even those who don't regularly treat patients.

Another interesting inclusion is the buyout option for a "reasonable price." This concept is becoming more prevalent in the non-compete world, so its appearance here is not surprising. Notably, the determination of what is or is not "reasonable" will likely be a hotly contested issue if this bill becomes law.

The bill passed the Indiana house on Feb. 3, 2020, and now proceeds to the senate. The Indiana legislature is in session until March 14, 2020, so we should know if this is passed into law in the next month.