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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 126  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Johnson

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### SUMMARY

- Authorizes a nonprofit hospital to require a physician, physician assistant, or advanced practice registered nurse, as a condition of employment, to enter into a post-employment noncompete agreement, if the noncompete terms are limited to six months and the surrounding 15-mile area.
- Otherwise prohibits a nonprofit hospital from requiring a physician, physician assistant, or advanced practice registered nurse, as a condition of employment, to enter into a post-employment noncompete agreement.
- Authorizes a nonprofit hospital to require a physician, physician assistant, or advanced practice registered nurse, as a condition of employment, to enter into a noncompete agreement for the term of the practitioner's employment contract with the hospital.
- Authorizes a physician, physician assistant, or advanced practice registered nurse to commence a civil action against a nonprofit hospital if the practitioner believes that the hospital has violated the bill's provisions.

### DETAILED ANALYSIS

#### Nonprofit hospitals and post-employment noncompete agreements

##### Authority to enter into agreements

S.B. 126 authorizes a nonprofit hospital to require a physician, physician assistant, or advanced practice registered nurse, as a condition of employment with the hospital, to agree

that, at the conclusion of the practitioner's employment, the practitioner will refrain from obtaining employment, if certain requirements are met.<sup>1</sup> These include the following:

- That the period in which the practitioner will refrain from obtaining employment does not exceed six months;
- That the geographic area in which the practitioner will refrain from obtaining employment is within a 15-mile radius of the physical location where employed.

To implement the 15-mile radius requirement, the bill directs the hospital to identify in the practitioner's employment contract one specific address from which the radius will be measured.

### **General prohibition**

The bill otherwise prohibits a nonprofit hospital from requiring a physician, physician assistant, or advanced practice registered nurse, as a condition of employment, to agree that, at the conclusion of employment, the practitioner will refrain from obtaining employment as follows:

- In a specified geographic area;
- For a specified period of time;
- With a particular employer or in a particular industry or practice specialty.<sup>2</sup>

The bill also specifies that an agreement by the practitioner to waive their rights under the general prohibition is void and unenforceable.<sup>3</sup>

### **Noncompete agreements that apply during employment**

The bill specifies that it does not prohibit a nonprofit hospital from requiring a physician, physician assistant, or advanced practice registered nurse, as a condition of employment, to agree that the practitioner will refrain from obtaining employment during the term of the employment contract.<sup>4</sup> The agreement must address a specified geographic area and time period as well as a particular employer or industry or practice specialty.

### **Civil actions**

The bill authorizes a physician, physician assistant, or advanced practice registered nurse to bring a civil action against a nonprofit hospital if the practitioner believes that the

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<sup>1</sup> R.C. 3727.62(B)(2).

<sup>2</sup> R.C. 3727.62(B)(1).

<sup>3</sup> R.C. 3727.62(D).

<sup>4</sup> R.C. 3727.62(C).

hospital has violated the bill's general prohibition.<sup>5</sup> A violating hospital is liable for damages, attorney's fees, and costs.

### **Practitioners subject to the bill**

The bill's provisions apply to a physician, physician assistant, and advanced practice registered nurse who is employed by, or seeking employment with, a nonprofit hospital. But, they do not apply to one who formulates policy on behalf of the hospital, directs the implementation of policy, or is reasonably required on behalf of the hospital to have a major role in personnel administration.<sup>6</sup>

### **Nonprofit hospital definition**

For purposes of the bill, a nonprofit hospital is defined as a hospital no part of the net earnings of which inure, or may lawfully inure, to the benefit of any private shareholder or individual.<sup>7</sup>

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## **HISTORY**

Action	Date
Introduced	05-31-23

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<sup>5</sup> R.C. 3727.62(E).

<sup>6</sup> R.C. 3727.62(A).

<sup>7</sup> R.C. 3727.62(A).