The Legislature
of the
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 96

SENATE BILL 325, as amended

Introduced by

SENATOR STUART INGLE AND SENATOR PETE CAMPOS
SENATOR CARROLL H. LEAVELL
SENATOR GERALD ORTIZ Y PINO
SENATOR CLIFF R. PIRTLE
SENATOR CLEMENTE SANCHEZ
SENATOR JOHN ARTHUR SMITH
SENATOR LISA TORRACO
AN ACT

RELATING TO PUBLIC HEALTH; MAKING NON-COMPETE PROVISIONS IN
CERTAIN HEALTH CARE PRACTITIONER AGREEMENTS UNENFORCEABLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. DEFINITIONS.--As used in this act:

A. "agreement" means a written contract to which a
health care practitioner is a party; and

B. "health care practitioner" means:

(1) a dentist;

(2) an osteopathic physician;

(3) a physician;

(4) a podiatrist; and

(5) a certified registered nurse
anesthetist.

SECTION 2. ENFORCEABILITY OF A NON-COMPETE PROVISION.--

A non-compete provision in an agreement, which provision
restricts the right of a health care practitioner to provide
clinical health care services, shall be unenforceable upon
the termination of:

A. the agreement;

B. a renewal or extension of the agreement; or

C. a health care practitioner's employment with a
party seeking to enforce the agreement.

SECTION 3. ENFORCEABILITY OF OTHER PROVISIONS.--
Nothing in this act shall be construed to limit the enforceability of:

A. a provision in an agreement requiring a health care practitioner who has worked for an employer for an initial period of less than three years to repay all or a portion of:

   (1) a loan;
   (2) relocation expenses;
   (3) a signing bonus or other remuneration to induce the health care practitioner to relocate or establish a health care practice in a specified geographic area; or
   (4) recruiting, education and training expenses;

B. a nondisclosure provision relating to confidential information and trade secrets;

C. a nonsolicitation provision with respect to patients and employees of the party seeking to enforce the agreement for a period of one year or less after the last date of employment; or

D. any other provision of an agreement that is not in violation of law, including a provision for liquidated damages.

SECTION 4. LIQUIDATED DAMAGES.--

A. An agreement may provide for liquidated damages in an amount that is reasonable at the time the agreement is
executed and in light of anticipated harm and difficulty of proving the amount of loss resulting from breach of the agreement by any party.

E. A provision in an agreement fixing unreasonably large liquidated damages is void as a penalty.

SECTION 5. APPLICABILITY.--

A. This act does not apply to agreements between health care practitioners who are shareholders, owners, partners or directors of a health care practice.

B. The provisions of this act apply to agreements, or renewals or extensions of agreements, executed on or after July 1, 2015.
John A. Sanchez, President
Senate

Lenore M. Naranjo, Chief Clerk
Senate

Don L. Tripp, Speaker
House of Representatives

Denise Ramonas, Chief Clerk
House of Representatives

Approved by me this 8th day of April, 2015

Susana Martinez
Governor
State of New Mexico