

1 AN ACT relating to health service providers.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Covenant not to compete" means a covenant or agreement, including a
7 provision of a contract of employment, between a health service provider
8 and employee that restrains, prohibits, or otherwise restricts an employee's
9 ability, following the termination of the employee's employment, to compete
10 with his or her former employer;

11 (b) "Employee" means an individual employed by, contracted with, or
12 otherwise receiving financial remuneration from a health service provider
13 for providing health services; and

14 (c) "Health service provider" means a health facility as defined in KRS
15 216B.015 that employs individuals to provide health services.

16 (2) A health service provider shall not enter, enforce, or threaten to enforce a
17 covenant not to compete with any employee.

18 (3) An employee may bring a civil action against a former health service provider or
19 other person that attempts to enforce a covenant not to compete against him or
20 her in violation of this section.

21 (4) An action under this section shall be brought within two (2) years of the latter of
22 the date the:

23 (a) Covenant not to compete was signed;

24 (b) Employee learns of the covenant not to compete;

25 (c) Employment relationship is terminated; or

26 (d) Employer takes any step to enforce the covenant not to compete.

27 (5) The court shall have jurisdiction to void any covenant not to compete with an

1 employee and to order all appropriate relief, including an order enjoining the
2 conduct of any health service provider, awarding damages, and awarding
3 reasonable attorney fees and costs.

4 (6) A health service provider shall not discharge, threaten, or otherwise discriminate
5 or retaliate against an employee for bringing a civil action pursuant to this
6 section.

7 (7) Every health service provider shall post a copy of this section or a summary
8 approved by the Cabinet for Health and Family Services in the same location as
9 other employee notices required by state or federal law.

10 (8) Any health service provider who violates the provisions of this section shall be
11 assessed a civil penalty by the Cabinet for Health and Family Services of not less
12 than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for
13 each violation.

14 (9) Any covenant not to compete as defined in this section, in a contract or
15 agreement is void and unenforceable.