

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 or service as defined in*  
15 *KRS 216B.015 that employs individuals to provide health services.*

16 *(2) A health service provider that receives ten percent (10%) or more of its annual*  
17 *total gross revenue from state general funds shall not enter into, enforce, or*  
18 *threaten to enforce a covenant not to compete with any employee.*

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

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

24 *(a) Covenant not to compete was signed;*

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

26 *(c) Employment relationship is terminated; or*

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

- 1 (5) The court shall have jurisdiction to void any covenant not to compete with an  
2 employee and to order all appropriate relief, including an order enjoining the  
3 conduct of any health care provider, awarding damages, and awarding  
4 reasonable attorney fees and costs.
- 5 (6) A health service provider shall not discharge, threaten, or otherwise discriminate  
6 or retaliate against an employee for bringing a civil action pursuant to this  
7 section.
- 8 (7) Every health service provider shall post a copy of this section or a summary  
9 approved by the Cabinet for Health and Family Services in the same location as  
10 other employee notices required by state or federal law.
- 11 (8) Any health service provider who violates the provisions of this section shall be  
12 assessed a civil penalty by the Cabinet for Health and Family Services of not less  
13 than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for  
14 each violation.
- 15 (9) Any covenant not to compete in effect before the effective day of this Act shall not  
16 be renewed upon its expiration.