



2021 South Dakota Legislature

House Bill 1154

HOUSE JUDICIARY ENGROSSED

Introduced by: **Representative** Deutsch

1 **An Act to prohibit employment contracts restricting competitive health care**
 2 **practices.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 53-9-11 be AMENDED.

5 **53-9-11. Employment contract--Limitation on competition.**

6 ~~An~~ Except as otherwise provided in § 53-9-13, an employee may agree with an
 7 employer at the time of employment or at any time during ~~his~~ employment not to engage
 8 directly or indirectly in the same business or profession as that of ~~his~~ the employer for any
 9 period not exceeding two years from the date of termination of the agreement and not to
 10 solicit existing customers of the employer within a specified county, ~~first_~~ or ~~second_~~ class
 11 municipality, or other specified area for any period not exceeding two years from the date
 12 of termination of the agreement, if the employer continues to carry on a like business
 13 therein.

14 **Section 2.** That a NEW SECTION be added:

15 **53-9-13. Health care provider--Contract to restrict practice--Prohibition--**
 16 **Exception.**

17 A contract that creates or establishes the terms of employment, a partnership, or
 18 any other form of professional relationship, with a health care provider, is void and
 19 unenforceable if the contract restricts the right of the healthcare provider to:

- 20 (1) Practice or provide services for which the provider is licensed, in any geographic
 21 area and for any period of time, after the termination of the employment,
 22 partnership, or other form of professional relationship;
 23 (2) Treat, advise, consult with, or establish a provider-patient relationship with any
 24 current patient of the employer, or with a patient affiliated with a partnership or
 25 other form of professional relationship; or

1 (3) Solicit or seek to establish a provider-patient relationship with any current patient
2 of the employer, or with a patient affiliated with a partnership or other form of
3 professional relationship.

4 The prohibition of this section does not apply to a contract in connection with the
5 sale and purchase of a practice.

6 For purposes of this section, a health care provider means:

7 (1) A physician licensed in accordance with chapter 36-4;

8 (2) A physician assistant licensed in accordance with chapter 36-4A;

9 (3) A certified nurse practitioner licensed in accordance with chapter 36-9A;

10 (4) A certified nurse midwife licensed in accordance with chapter 36-9A;

11 (5) A certified registered nurse anesthetist authorized to practice in accordance with §
12 36-9-3.1;

13 (6) A registered nurse authorized to practice in accordance with § 36-9-3; and

14 (7) A licensed practical nurse authorized to practice in accordance with § 36-9-4.