

CHAPTER 87

LABOR AND INDUSTRY

SENATE BILL 18-082

BY SENATOR(S) Zenzinger, Aguilar, Todd, Court, Donovan, Fields, Guzman, Hill, Jahn, Jones, Kagan, Kefalas, Kerr, Martinez Humenik, Merrifield, Moreno, Tate, Williams A.;
also REPRESENTATIVE(S) Kennedy, Esgar, Ginal, Roberts, Weissman, Young.

AN ACT

CONCERNING A PHYSICIAN'S RIGHT TO PROVIDE CONTINUING CARE TO PATIENTS WITH RARE DISORDERS DESPITE A COVENANT NOT TO COMPETE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 8-2-113, **amend** (3) as follows:

8-2-113. Unlawful to intimidate worker - agreement not to compete.

(3) (a) Any covenant not to compete provision of an employment, partnership, or corporate agreement between physicians ~~which~~ THAT restricts the right of a physician to practice medicine, as defined in section 12-36-106, ~~C.R.S.~~, upon termination of ~~such~~ THE agreement, ~~shall be~~ IS void; except that all other provisions of ~~such an~~ THE agreement enforceable at law, including provisions ~~which~~ THAT require the payment of damages in an amount that is reasonably related to the injury suffered by reason of termination of the agreement, ~~shall be~~ ARE enforceable. Provisions ~~which~~ OF A COVENANT NOT TO COMPETE THAT require the payment of damages upon termination of the agreement may include ~~but not be limited to,~~ damages related to competition.

(b) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION, AFTER TERMINATION OF AN AGREEMENT DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION, A PHYSICIAN MAY DISCLOSE HIS OR HER CONTINUING PRACTICE OF MEDICINE AND NEW PROFESSIONAL CONTACT INFORMATION TO ANY PATIENT WITH A RARE DISORDER, AS DEFINED IN ACCORDANCE WITH CRITERIA DEVELOPED BY THE NATIONAL ORGANIZATION FOR RARE DISORDERS, INC., OR A SUCCESSOR ORGANIZATION, TO WHOM THE PHYSICIAN WAS PROVIDING CONSULTATION OR TREATMENT BEFORE TERMINATION OF THE AGREEMENT. NEITHER THE PHYSICIAN NOR THE PHYSICIAN'S EMPLOYER, IF ANY, IS LIABLE TO ANY PARTY TO THE PRIOR AGREEMENT FOR

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

DAMAGES ALLEGED TO HAVE RESULTED FROM THE DISCLOSURE OR FROM THE PHYSICIAN'S TREATMENT OF THE PATIENT AFTER TERMINATION OF THE PRIOR AGREEMENT.

SECTION 2. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 2, 2018