

[W. Va. Code §§ 47-11E-1 through 47-11E-5.]

§§ 47-11E-1 through 47-11E-5: Physicians Freedom of Practice Act

§ 47-11E-1. Definitions.

As used in this article:

“Contract” means a written agreement between a physician and an employer.

“Covenant not to compete” means any contract that restricts the right of a physician to practice medicine in any geographic area of the state for any period of time following the expiration of the physician’s contract with his or her employer, or upon the termination of the physician’s contract by the physician’s employer.

“Employer” means any person employing at least one individual in the state or any agent of an employer employing at least one individual in the state.

“Person” means any individual, proprietorship, partnership, firm, association, corporation, labor organization, limited liability corporation or any other legal entity.

“Physician” means a doctor of allopathic or osteopathic medicine who is fully licensed to practice medicine and surgery pursuant to the provisions of either article three or fourteen, chapter thirty of this code.

§ 47-11E-2. Limitations on contractual provisions in physician employment contract.

(a) A covenant not to compete contained in a contract between a physician and an employer shall be limited to not more than:

- (1) One year in duration; and
- (2) Thirty road miles from the physician’s primary place of practice with the employer.

(b) A covenant not to compete shall be void and unenforceable upon the termination of the physician’s employment by the employer.

§ 47-11E-3. Enforceability of other provisions.

Provided that the contract does not state otherwise, nothing in this article limits the enforceability of:

- (1) Provisions prohibiting a physician from taking any property, patient lists or records of the employer with him or her upon the termination or expiration of the contract;
- (2) Provisions requiring a physician to repay an employer all or a portion of:
 - (A) A loan;
 - (B) Relocation expenses;
 - (C) A signing bonus;

- (D) Remuneration to induce the physician to relocate or establish a physician practice in a specific geographic area; or
- (E) Recruiting, education and training expenses;
- (3) A nondisclosure provision relating to confidential information and trade secrets;
- (4) A nonsolicitation provision with respect to patients and employees of the employer;
- (5) A provision for liquidated damages; or
- (6) Any other provision of a contract that is not in violation of law.

§ 47-11E-4. Exemptions to limitations.

The limitations set forth in this article do not apply to any of the following unless the contract terms provide otherwise:

- (1) In the case where the physician has sold his or her business or practice in the form of a sale of assets, stock, membership interests or otherwise to his or her employer; or
- (2) To contracts between physicians who are shareholders, owners, partners, members or directors of a health care practice.

§ 47-11E-5. Applicability.

This article applies to any contract between a physician and his or her employer entered into, modified, renewed or extended on or after July 1, 2017: Provided, That the provisions of this article do not otherwise apply to or abrogate any contract in effect on or before June 30, 2017.

§47-11E-6.

Repealed.

Acts, 1986 1st Ex. Sess., Ch. 21.

§47-11E-7.

Repealed.

Acts, 1986 1st Ex. Sess., Ch. 21.

§47-11E-8.

Repealed.

Acts, 1986 1st Ex. Sess., Ch. 21.

§47-11E-9.

Repealed.

Acts, 1986 1st Ex. Sess., Ch. 21.

§47-11E-10.

Repealed.

Acts, 1986 1st Ex. Sess., Ch. 21.

§47-11E-11.

Repealed.

Acts, 1986 1st Ex. Sess., Ch. 21.

§47-11E-12.

Repealed.

Acts, 1986 1st Ex. Sess., Ch. 21.