

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILLS 82 & 128

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

AN ACT

RELATING TO HEALTH CARE; MAKING CERTAIN PROVISIONS IN HEALTH  
CARE PRACTITIONER AGREEMENTS VOID, UNENFORCEABLE AND AGAINST  
PUBLIC POLICY; INCLUDING CERTIFIED NURSE PRACTITIONERS AND  
CERTIFIED NURSE-MIDWIVES IN THE DEFINITION OF "HEALTH CARE  
PRACTITIONER".

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 24-1I-1 NMSA 1978 (being Laws 2015,  
Chapter 96, Section 1) is amended to read:

"24-1I-1. DEFINITIONS.--As used in [~~this act~~] Chapter 24,  
Article 1I NMSA 1978:

A. "agreement" means a written contract to which a  
health care practitioner is a party; and

B. "health care practitioner" means:

(1) a dentist;

- 1 (2) an osteopathic physician;
- 2 (3) a physician;
- 3 (4) a podiatrist; [~~and~~]
- 4 (5) a certified registered nurse anesthetist;
- 5 (6) a certified nurse practitioner; and
- 6 (7) a certified nurse-midwife."

7 SECTION 2. Section 24-11-2 NMSA 1978 (being Laws 2015,  
8 Chapter 96, Section 2) is amended to read:

9 "24-11-2. ENFORCEABILITY OF A NON-COMPETE PROVISION--  
10 OTHER PROVISIONS VOID.--

11 A. A non-compete provision in an agreement, which  
12 provision restricts the right of a health care practitioner to  
13 provide clinical health care services in this state, shall be  
14 unenforceable upon the termination of:

15 [~~A.~~] (1) the agreement;

16 [~~B.~~] (2) a renewal or extension of the  
17 agreement; or

18 [~~C.~~] (3) a health care practitioner's  
19 employment with a party seeking to enforce the agreement.

20 B. A provision in an agreement for clinical health  
21 care services to be rendered in this state is void,  
22 unenforceable and against public policy if the provision:

23 (1) makes the agreement subject to the laws of  
24 another state; or

25 (2) requires any litigation arising out of the

1 agreement to be conducted in another state."

2 SECTION 3. Section 24-1I-5 NMSA 1978 (being Laws 2015,  
3 Chapter 96, Section 5) is amended to read:

4 "24-1I-5. APPLICABILITY.--

5 A. ~~[This act]~~ Chapter 24, Article 1I NMSA 1978 does  
6 not apply to agreements between health care practitioners who  
7 are shareholders, owners, partners or directors of a health  
8 care practice.

9 B. Except as provided by Subsection C of this  
10 section, the provisions of ~~[this act]~~ Chapter 24, Article 1I  
11 NMSA 1978 apply to agreements, or renewals or extensions of  
12 agreements, executed on or after July 1, 2015.

13 C. The provisions of Subsection B of Section  
14 24-1I-2 NMSA 1978 apply to agreements, or renewals or  
15 extensions of agreements, executed on or after July 1, 2017."

underscored material = new  
[bracketed material] = delete