

HB 1660 with HCA 1 -- COVENANTS NOT TO COMPETE

SPONSOR: Frederick

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Health and Mental Health Policy by a vote of 11 to 0.

This bill prohibits the enforcement of a covenant not to compete if it is ancillary to or part of an otherwise enforceable agreement with a nonprofit hospital in Missouri. A covenant not to compete must not deny a physician access to a list of his or her patients whom the physician has treated within one year of termination of employment; must provide access to the medical records of the physician's patients; must provide that any access to a list of patients or patients' records must be provided in the format that such records are maintained; and must permit the physician to provide continuing care and treatment to a specific patient or patients during the course of an acute illness.

HCA #1: This amendment removes the term "nonprofit hospital" and replaces it with "private, nonprofit health care entity or governmental health care entity".

PROPONENTS: Supporters say that the bill seeks to address issues when a physician decides his or her current practice situation is no longer suitable. Current covenants not to compete can prevent a physician from practicing within their current geographic area, thus requiring the physician to relocate to continue practicing. This is causing Missouri to lose physicians to other states. The bill applies to nonprofits only because such entities are supposed to have a charitable purpose and provide health care in exchange for favorable tax benefits. The bill will help to ensure continuity of care for patients in their communities.

Testifying for the bill were Representative Frederick; Missouri State Medical Association; and Missouri Academy Of Family Physicians.

OPPONENTS: Those who oppose the bill say that they are concerned with the investment made by hospitals when hiring a physician. Such covenants protect this investment and often include a buyout clause or liquidated damages if a physician wishes to terminate their employment. The focus on nonprofit hospitals seems irrational, should address for profit entities and ambulatory surgical centers. Such covenants can be very useful and are often limited to two years.

Testifying against the bill were Missouri Hospital Association; Coxhealth; and Washington University.