



MedStar Health

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**HB 1388 – Labor and Employment – Noncompete and Conflict of Interest
Clauses – Veterinary and Health Care Professionals**

Senate Finance Committee

Position: ***Oppose***

March 28, 2024

The Honorable Pamela Beidle
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401

Dear Chair Beidle:

I am Kerry Richard, MedStar Health's Senior Vice President and Executive Deputy General Counsel. More importantly, I have been a labor and employment lawyer representing healthcare and veterinary employers in Maryland for 30 years.

MedStar Health is one of the largest non-profit health systems in Maryland, with 32,000 employees, 10 hospitals and over 700 access points for care, covering 225 zip codes in 17 counties. We employ over 2600 physicians.

MedStar's mission is to provide care to patients across our communities, and to do that we have made and are making substantial investments in recruiting and retaining top quality physicians and deploying them across the region.

To support this strategy, MedStar has asked every physician to sign a restrictive covenant that prevents them from competing within 5 miles of their primary MedStar work location for a period of 2 years after resigning from MedStar or being fired "for cause." For certain specialties, the radius is expanded up to 15 miles.

The restriction does not apply if MedStar terminates the physician's employment "without cause" and it does not apply to physicians working in Emergency Departments, regardless of location. The restriction also expressly invites physicians to request a waiver of any restriction at the time of resignation to allow the provider to work in the restricted area, if the physician's new work does not compete unfairly with MedStar.

I share all this with you to explain that MedStar's purpose is not draconian – and absolutely not intended to run physicians out of Maryland. It is intended solely to protect MedStar's ability to develop and maintain good will in the communities we serve – something courts in Maryland have recognized as a legitimate protectible interest since the 1960s.

Why do health care employers need this restriction? Because for every new physician we hire, we make a start-up investment of between \$500,000 and \$1 million. That includes office space, equipment, staff, and medical malpractice coverage, as examples. In addition to the start-up investment, MedStar pays full-time

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It's how we treat people.

new hire physicians a base annual compensation upwards of \$250,000, plus a full array of benefits. We provide this income during their start-up period, to support them even though studies indicate that it takes 24 months for most physicians to achieve median levels of productivity. These are long-term investments.

MedStar has continued to expand its physician workforce annually. In 2023, it grew by more than 100 physicians compared to 2022. MedStar makes these investments in every physician, so that MedStar can continue to meet its commitments to provide access to patients in their own communities.

If every physician were free to leave and compete in the immediate vicinity of their MedStar office, those investments would make no sense. The restriction allows MedStar a reasonable period of time to recruit and replace the departing physician, to introduce patients to the new physician and to re-cement patients' good will with MedStar.

More importantly, if hospitals and health systems cannot make and reasonably protect these investments, they will not be able to continue making them. This will limit access to care and leave the burden on rural and disadvantaged communities to attract and retain physicians in those communities.

As many of the "proponents" of this bill have pointed out, young physicians coming out medical school simply do not have the economic means to start up their own practices. The debt load, and the significant costs of operating a medical practice are the true reasons why physicians are seeking to be employed by larger health systems. And Maryland's non-profit health systems are stepping into the breach, dedicating their scarce resources to seed these physician's practices because we know that access to care is essential to safeguarding the health of our communities and managing the total cost of care. But health systems are not banks. We are charged with managing the total cost of care in Maryland, and if we cannot fairly protect our investments, we will not be able to continue to support physician practices across the state.

A few other points:

1. The health care market place is already significantly disrupted by non-traditional players who want to leverage for-profit models of care, cherry-picking high value services leaving non-profit health systems to care for the masses, the underinsured, the disadvantaged, and to fight for reimbursement. The margins for non-profit health care are simply too thin to make it even harder to expand access to care.
2. As the daughter of a veterinarian, and a life-long horse owner, there is literally zero equivalency between the business of equine veterinary medicine and the legal, moral, and ethical need to provide access to healthcare for all the people in our communities. The unique mission of Maryland's non-profit health systems and the challenges they face in providing affordable access to care is too important and too complex to be coupled with a discussion about for-profit, fee-for-service veterinary care supporting a predominantly recreational activity.

For all of these reasons, we oppose HB 1388. Thank you for your consideration.

Sincerely yours,



Kerry M. Richard

cc: Members, Senate Finance Committee
David A. Smulski, Staff