



**MARYLAND**  
CHAPTER

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**AMERICAN COLLEGE  
of CARDIOLOGY®**

March 1, 2024

The Honorable Joseline A. Pena-Melnyk  
Chair, Health and Government Operations Committee  
House of Delegates  
241 Taylor House Office Building  
6 Bladen Street  
Annapolis, MD 21401  
[joseline.pena.melnyk@house.state.md.us](mailto:joseline.pena.melnyk@house.state.md.us)

**RE: SUPPORT FOR HB 1388 LABOR AND EMPLOYMENT – NONCOMPETE AND CONFLICT OF INTEREST CLAUSES – VETERINARY AND HEALTH CARE PROFESSIONALS BILL**

Dear Delegate Pena-Melnyk:

The Maryland Chapter of the American College of Cardiology (MD-ACC) appreciates the opportunity to state our SUPPORT for ***HB 1388 Labor and Employment – Noncompete and Conflict of Interest Clauses*** which would prohibit employers from forcing departing physicians and other providers from practicing within a certain geographical area for a specific time upon leaving their current employer.

Unfair noncompete clauses are more prevalent than ever affecting “between 37% and 45% of physicians” and are “especially problematic for residents, fellows and young physicians by limiting their opportunities for career advancement and restricting their ability to provide care in economically or socially marginalized communities,” according to the American Medical Association.

Most non-compete contracts go so far as to prohibit providers from notifying their patients of their departure, rendering them unable to provide support through what for many is a difficult transition.

The increased use of non-competes is especially troubling when considering the rapid, sustained increase of hospital-based physician employment over the last several years, which according to the Medical Group Management Association (MGMA) rose from 16 percent 2006 to nearly 86 percent in 2022.

Unfortunately, as hospital and health system-based employment has increased, so too have the geographic boundaries of non-compete contracts. HB 1388 does not seek to halt this expansion, but simply address an unforeseen consequence that will benefit patients.

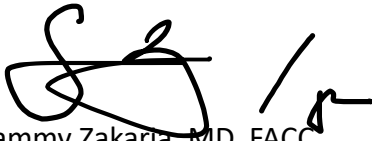
Beyond geographic restrictions, there is evidence that non-compete clauses and other restrictive covenants have adversely impact clinicians' work and personal lives – an extremely important topic, given the high rates of burnout, depression, and suicide.

As you know, the Federal Trade Commission (FTC) final rule on this issue is expected to be released in April of this year. While we applaud them for doing so, we believe that states will need to take action, as HB1388, to put its principles into effect. The FTC simply does not have the resources to enforce a nationwide ban on non-compete agreements. States, on the other hand, are already doing it through the legislatures and the courts.

For all these reasons, for the benefit of Maryland patients and our healthcare workforce, we ask for a FAVORABLE report on HB 1388.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sammy Zakaria', written over a horizontal line.

Sammy Zakaria, MD, FACC  
President-elect, Maryland ACC

#### References:

1. Marshall JJ, et al. Restrictive covenants and non-compete clauses for physicians. JACC Advances 2023; 2(7). <https://www.jacc.org/doi/10.1016/j.jacadv.2023.100547>
2. ACC Submits Comments to FTC on Non-Compete Proposed Rule. April 6, 2023. <https://www.acc.org/latest-in-cardiology/articles/2023/04/06/14/02/acc-submits-comments-to-ftc-on-non-compete-proposed-rule>
3. FTC Proposes Rule to Ban Noncompete Clauses, Which Hurt Workers and Harm Competition. January 5, 2023. [FTC Proposes Rule to Ban Noncompete Clauses, Which Hurt Workers and Harm Competition | Federal Trade Commission](https://www.ftc.gov/press-release/ftc-proposes-rule-ban-noncompete-clauses-which-hurt-workers-and-harm-competition)
4. AMA backs effort to ban many physician noncompete provisions. June 13, 2023. <https://www.ama-assn.org/medical-residents/transition-resident-attending/ama-backs-effort-ban-many-physician-noncompete>
5. MedChi House of Delegates – Final Reports and Resolutions. October 28, 2023. Resolution 22-23 – Restrictive Covenants in Physician Contracts, page 6. [Final Reports and Resolutions Fall 2023.pdf \(medchi.org\)](https://www.medchi.org/wp-content/uploads/2023/10/Final-Reports-and-Resolutions-Fall-2023.pdf)