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Bill: House Bill 1388 -- Labor and Employment – Noncompete and Conflict of Interest Clauses –
Veterinary and Health Care Professionals

Committee: Health and Government Operations

Position: FAV

Noncomplete clauses in health care employment contracts can have detrimental effects on providers and the communities in which they desire to serve. This may be especially true in some of the smaller communities in the state, where there may already be fewer providers. Noncomplete clauses may reduce access to needed services and force providers out of an area in which they desire to live and serve. I am submitting testimony regarding both my professional and personal experience with this situation.

I am a board-certified orthopaedic surgeon and currently serve as Chair of the Department of Orthopaedic Surgery at Calvert Health Medical Center in Prince Frederick. I am one of seven practicing orthopaedic providers in Calvert County. There are three distinct private practices to serve this community. Two years ago, we had a provider leave the county due to a noncompete clause. She had dedicated the bulk of her professional career to practicing in Calvert County, having served this community for over 20 years. She was subspecialty trained in pediatric orthopaedic surgery, often taking certain pediatric cases that the rest of us were not comfortable with. This allowed these patients to remain closer to home for treatment and follow up. When she left her practice here in Prince Frederick, the noncompete clause in her employment agreement prevented her from continuing to practice locally. As a result, she needed to relocate to continue her medical practice. Additionally, the more complex pediatric orthopaedic conditions are now routinely referred to Children's National or other tertiary care facilities. This adds an additional burden to our emergency department trying to arrange transfers to the tertiary care facilities, as well as the burden of travel out of the community to the family.

On a more personal level, I am also a member of the Maryland equestrian community. This requires access to large animal veterinarians, who often have additional specialty training in equines and other large animals. The facility at which I board has had a positive relationship with a particular equine veterinarian, Dr. Christopher Caniglia. One of my horses has a problem with her spine, which could be alleviated with a surgical procedure. A friend had a similar situation with her horse, who had a successful surgery performed by Dr. Caniglia. While I was considering whether to proceed with the surgery, Dr. Caniglia left his prior practice. Due to his noncompete clause, he has not been able to remain in the area. While he is establishing privileges with a new practice and surgical facility, this takes him further away from southern Maryland. My mare would now need to have a trailer trip of 2 to 3 hours, whereas before the trip to his practice was just under an hour. Trying to remain local would require establishing a relationship with a new veterinarian. While this sometimes ends up being the situation, particularly if a provider makes a planned move out of the

area or state, being forced to change providers due to noncompete clauses is less ideal. I trust Dr. Caniglia and would like to have him continue treating my mare. This situation simply highlights the inconvenience to both patients and providers that noncomplete clauses can create.

Noncomplete clauses in health care employment agreements seem to be a relic of the era when private practice was the predominant outpatient health care delivery service. These clauses serve to benefit a business/practice entity, not the patients or the providers with whom they have developed a relationship. While private practice is still the likely standard for veterinary medicine, it is becoming much less common in human health care. Regardless of the health care need, human or veterinary, both are facing critical shortages in providers. The provider shortage in healthcare has already created difficulties in accessing needed care. The continued use of noncompete clauses in many cases unfortunately continues to perpetuate or worsen access to care and services. I am therefore in favor of passage of House Bill 1388.