

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

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

Dear Delegate Pena-Melnyk:

I am a cardiologist practicing in Maryland for the past 19 years, primarily with Johns Hopkins Medicine, as well as the immediate past-president of the Maryland Chapter of the American College of Cardiology (ACC). During my tenure, I have heard from a number of cardiologists in the state who have been adversely affected by non-compete clauses in health system contracts. These are often onerous and non-negotiable terms which limit the ability of doctors to change employment without having to leave a region or the state, contributing to our health care workforce shortage. Non-competes also strain and sever valuable patient-physician relationships, often built up over many years. As Chair of the ACC Board of Governors in 2021, I co-led a workgroup which found that the great majority of cardiologists in the US find these clauses to be non-negotiable, harmful to the patient-physician relationship, and contrary to physician well-being and the public interest.^{1,2}

Numerous organizations, including the US Federal Trade Commission³, the American Medical Association⁴, and the Maryland State Medical Society (MedChi)⁵ have now recognized that non-compete clauses are an unreasonable restraint of trade that are being abused by large corporations (including health systems) for private advantage at the expense of the public good. Eleven US states and the District of Columbia have already barred physician non-competes by law. Maryland should join them. I ask for a FAVORABLE report for HB 1388.

Sincerely,

A handwritten signature in black ink that reads "Joseph E. Marine". The signature is written in a cursive, flowing style.

Joseph E. Marine, MD, FACC
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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/news-events/press-releases/2023/01/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)