

First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 7

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AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 25-22.5-5.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 1.5. As used in this chapter, "primary care physician" refers to a physician practicing in one (1) or more of the following:**

- (1) **Family medicine.**
- (2) **General pediatric medicine.**
- (3) **Internal medicine.**

SECTION 2. IC 25-22.5-5.5-2, AS ADDED BY P.L.93-2020, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2. (a) Subject to subsection (b),** to be enforceable, a physician noncompete agreement must include all of the following provisions:

- (1) A provision that requires the employer of the physician to provide the physician with a copy of any notice that:
  - (A) concerns the physician's departure from the employer; and
  - (B) was sent to any patient seen or treated by the physician during the two (2) year period preceding the termination of the physician's employment or the expiration of the physician's contract. Provided, however, the patient names and contact information be redacted from the copy of the notice provided

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from the employer of the physician to the physician.

(2) A provision that requires the physician's employer to, in good faith, provide the physician's last known or current contact and location information to a patient who:

(A) requests updated contact and location information for the physician; and

(B) was seen or treated by the physician during the two (2) year period preceding the termination of the physician's employment or the expiration of the physician's contract.

(3) A provision that provides the physician with:

(A) access to; or

(B) copies of;

any medical record associated with a patient described in subdivision (1) or (2) upon receipt of the patient's consent.

(4) A provision that provides the physician whose employment has terminated or whose contract has expired with the option to purchase a complete and final release from the terms of the enforceable physician noncompete agreement at a reasonable price. However, in the event the physician elects not to exercise the purchase option, then the option to purchase provision may not be used in any manner to restrict, bar, or otherwise limit the employer's equitable remedies, including the employer's enforcement of the physician noncompete agreement.

(5) A provision that prohibits the providing of patient medical records to a requesting physician in a format that materially differs from the format used to create or store the medical record during the routine or ordinary course of business, unless a different format is mutually agreed upon by the parties. Paper or portable document format copies of the medical records satisfy the formatting provisions of this chapter.

**(b) Beginning July 1, 2023, a physician noncompete agreement is not enforceable if any of the following circumstances occur:**

**(1) The employer terminates the physician's employment without cause.**

**(2) The physician terminates the physician's employment for cause.**

**(3) The physician's employment contract has expired and the physician and employer have fulfilled the obligations of the contract.**

SECTION 3. IC 25-22.5-5.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2.5. (a) This section does not**

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apply to a physician noncompete agreement originally entered into before July 1, 2023.

**(b) Notwithstanding any other law, a primary care physician and an employer may not enter into a noncompete agreement.**

SECTION 4. IC 25-22.5-5.5-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 2.6. (a) This section does not apply to a physician noncompete agreement originally entered into before July 1, 2023.**

**(b) If a physician elects to exercise the option to purchase a release from a noncompete agreement under section 2(a)(4) of this chapter, the employer shall negotiate in good faith with the physician to determine a reasonable purchase price.**

**(c) If:**

**(1) a physician notifies the employer of the physician's election to exercise the option to purchase a release from the noncompete agreement under section 2(a)(4) of this chapter; and**

**(2) the physician and the employer cannot agree on a reasonable purchase price;**

**the physician or the employer may serve a notice of intent to pursue mediation.**

**(d) A party shall serve a notice of intent to pursue mediation under subsection (c) on the other party not later than thirty-five (35) days after the physician notifies the employer under subsection (c)(1).**

**(e) The parties shall mutually select a mediator to conduct a mediation under this section.**

**(f) Unless the parties agree otherwise, the mediation must take place in the city within Indiana that:**

**(1) is closest to the physician's primary place of employment during the term of the physician's contract with the employer; and**

**(2) has a population of more than fifty thousand (50,000).**

**(g) The mediation must conclude not later than forty-five (45) days after the date that the notice of intent to pursue mediation was served under subsection (c).**

**(h) Unless the parties agree otherwise, the cost of the mediator and any other direct costs of the mediation must be equally divided between the parties engaged in the mediation. All other costs must be paid by the party incurring them.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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