



2005 SENATE BILL 686

April 11, 2006 - Introduced by Senator STEPP, cosponsored by Representatives KRAWCZYK, LEHMAN, LOEFFELHOLZ and PETTIS. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT to renumber and amend** 103.465; and **to create** 103.465 (2) of the
2 statutes; **relating to:** covenants by a physician not to compete with an
3 employer or principal for more than one year after the termination of the
4 employment or agency.

Analysis by the Legislative Reference Bureau

Under current law, a covenant by an assistant, servant, or agent not to compete with his or her employer or principal during the term of the employment or agency, or after the termination of the employment or agency, within a specified territory, and during a specified time is lawful and enforceable only if the restrictions imposed are reasonably necessary for the protection of the employer or principal. Such a covenant that imposes an unreasonable restraint of trade, however, is illegal, void, and unenforceable even as to any part of the covenant that would be a reasonable restraint of trade.

This bill declares that a covenant by a physician not to compete with his or her employer or principal for more than one year after the termination of the employment or agency is *per se* an unreasonable restraint of trade and is illegal, void, and unenforceable even as to any part of the covenant that would be a reasonable restraint of trade. The bill does not affect: 1) a covenant not to compete that is in effect before the effective date of the bill until the covenant is extended, modified, or renewed; or 2) a covenant not to compete during or for one year or less after the

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termination of a physician's employment or agency, if the restrictions imposed are reasonable.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 103.465 of the statutes is renumbered 103.465 (1) and amended to
2 read:

3 103.465 (1) ~~A Subject to sub. (2), a covenant by an assistant, servant, or agent~~
4 not to compete with his or her employer or principal during the term of the
5 employment or agency, or after the termination of that employment or agency, within
6 a specified territory, and during a specified time is lawful and enforceable only if the
7 restrictions imposed are reasonably necessary for the protection of the employer or
8 principal. Any covenant, not to compete described in this subsection, ~~imposing that~~
9 imposes an unreasonable restraint of trade is illegal, void, and unenforceable even
10 as to any part of the covenant or performance that would be a reasonable restraint
11 of trade.

12 **SECTION 2.** 103.465 (2) of the statutes is created to read:

13 103.465 (2) A covenant by a physician not to compete with his or her employer
14 or principal for more than one year after the termination of the employment or
15 agency imposes an unreasonable restraint of trade and is illegal, void, and
16 unenforceable even as to any part of the covenant or performance that would be a
17 reasonable restraint of trade.

18 **SECTION 3. Initial applicability.**

19 (1) COVENANTS BY A PHYSICIAN NOT TO COMPETE AFTER TERMINATION OF
20 EMPLOYMENT. This act first applies to a covenant by a physician not to compete with
21 an employer or principal after the termination of the employment or agency that is

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1 in effect on the day before the effective date of this subsection on the day on which
2 the covenant is extended, modified, or renewed, whichever occurs first.

3 (END)