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FTC Sharpens Scrutiny of Noncompete Clauses in Health Care

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In the wake of judicial setbacks to its proposed nationwide noncompete ban, the Federal Trade Commission (FTC or commission) has pivoted toward a more targeted enforcement strategy. In doing so, the commission has placed the health care sector squarely within its crosshairs. On Sept. 10, 2025, FTC Chairman Andrew Ferguson announced that the commission had issued warning letters to several large, albeit unidentified, health care employers and staffing firms urging them to reassess the legality of their noncompete agreements under Section 5 of the FTC Act. The letters suggest a strategic pivot toward case-by-case enforcement against employers whose noncompete agreements the FTC deems violate Section 5.

Section 5 gives the commission broad power to seek injunctive relief (not damages) against vaguely defined "unfair methods of competition," including coercive or exploitative conduct in employment contracts and other practices that negatively impact competition, even where those practices do not violate traditional antitrust laws like the Sherman Act. Previously, the FTC had sought to use its rulemaking authority to promulgate a "noncompete rule" that would have virtually banned or invalidated most noncompete agreements. In April 2024, the FTC voted to adopt the final noncompete rule.

In August 2024, a federal court in Texas issued a nationwide injunction blocking the FTC's noncompete rule. Although the FTC initially pursued an appeal of the court's ruling, it formally withdrew its defense of the rule by September 2025. But despite abandoning the rulemaking effort, the agency has emphasized, to be clear, that its retreat from regulation does not signal a retreat from enforcement. In a recent statement, Ferguson pledged to "aggressively enforce the antitrust laws against noncompete agreements," including by "patrolling our markets for specific anticompetitive conduct that hurts American consumers and workers."

The health care sector appears to be the starting point for the commission's enforcement push. Noncompete clauses are widely used in health care employment contracts, often extending to nurses, physicians and other frontline providers. These agreements typically limit where a clinician can work after leaving a job and frequently cover wide geographic areas and extended time periods. Critics argue that these agreements can suppress wages and mobility and also can exacerbate access-to-care issues in underserved communities, particularly in areas where noncompete agreements can effectively limit employment options.

The FTC's letters reflect these concerns, warning that while narrowly tailored noncompete agreements may serve legitimate business interests, overly broad or unjustified restrictions on health care workers can constitute unfair methods of competition under Section 5. The FTC has expressed particular concern about the impact of such agreements on patient access to care, especially in rural areas where workforce shortages are already acute.

Noncompete clauses are also facing increased scrutiny from state regulators. Reflecting a broader national trend, Pennsylvania has enacted the Fair Contracting for Health Care Practitioners Act (act), which limits employers' ability to impose post-employment restrictions on certain health care professionals, including medical doctors, doctors of osteopathy, certified registered nurse anesthetists, nurse practitioners and physician assistants.

The act makes noncompete agreements longer than one year void and unenforceable. Noncompete clauses lasting up to one year may still be enforced if the practitioner resigns voluntarily. However, those agreements become unenforceable if the employer terminates the practitioner's employment, even for cause. The act defines "employer" broadly to include any person or group that employs a health care practitioner at a facility or an office. Crucially, it applies to both nonprofit and for-profit health care employers, requiring them to comply with new restrictions on noncompete clauses for covered practitioners.

Both nonprofit and private health care organizations in Pennsylvania must now consider the act when drafting post-employment restrictions for covered practitioners. Employers in the health care industry must also be cognizant of the FTC's renewed scrutiny of noncompete agreements it deems overly broad, coercive or lacking justification. Employers would be wise to review their employment agreements to ensure any noncompete clauses are narrowly

tailored and defensible under antitrust principles. Agreements that apply broadly to nonexecutive staff, lack geographic or temporal limitations, or fail to serve a legitimate business interest may be vulnerable to federal and state enforcement. Likewise, agreements that impede a practitioner's ability to treat or accept patients may be prohibited, and organizations should take good care to avoid agreements that may restrict patient care continuity. Stay tuned.

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