

MedChi

The Maryland State Medical Society

1211 Cathedral Street
Baltimore, MD 21201-5516
410.539.0872
Fax: 410.547.0915

1.800.492.1056

www.medchi.org

TO: The Honorable Thomas Mac Middleton, Chairman
Members, Senate Finance Committee
The Honorable Ronald Young

FROM: Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise

DATE: January 24, 2013

RE: **OPPOSE** – Senate Bill 51 – *Employment Contracts – Noncompetition Covenant – Conditions Affecting Enforcement*

The Maryland State Medical Society (MedChi), which represents over 7,500 Maryland physicians and their patients, opposes Senate Bill 51.

Senate Bill 51 would set aside contracts between employees and employers that contain non-compete clauses, if the employee later applied for and is determined eligible to receive unemployment insurance benefits from the State.

Non-compete clauses are an important part of any professional business, medical practices included. For example, a practice may hire a young physician. In exchange for gaining experience, the young physician agrees that if he leaves the employ of the practice, he must wait a reasonable period of time before practicing in the same geographical area. These clauses offer something to both parties: The practice gets an assurance that the new physician will not steal patients from the practice, and the young physician gets the opportunity to gain experience.

Courts have made it clear that non-compete clauses must be reasonable as to the time and geographic area they cover. Budget Rent-A-Car of Washington, Inc. v. Raab, 263 Md. 478, 482 (1973). They cannot restrict employment in any job, anywhere. A person is still very much employable in their profession even if they signed a non-compete clause. They may have to move to a different geographic area, but that is the nature of the bargain.

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Allowing all employees who entered into non-compete clauses to eviscerate the bargain simply by applying for and being determined eligible for unemployment benefits would wholly undermine non-compete clauses, which are willingly and knowingly entered into and which are beneficial to both parties.

MedChi urges the Committee to give Senate Bill 51 an unfavorable report.

For more information call:

Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise
410-244-7000