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**SENATE BILL NO. 779**

Offered January 10, 2018

Prefiled January 10, 2018

A *BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:6, relating to the enforceability of noncompetition agreements that restrict the right of a physician to practice medicine.*

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Patron—Stanley

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Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:6 as follows:**

**§ 40.1-28.7:6. Noncompetition agreements void as to physicians.**

A. As used in this section, unless the context requires otherwise:

"Business entity" means any (i) partnership, including a limited partnership or a limited liability partnership; (ii) limited liability company; or (iii) stock corporation.

"Covenant not to compete" means a covenant or agreement, including a provision of a contract of employment, between an employer and employee that restrains, prohibits, or otherwise restricts an individual's ability to compete with his employer following the termination of the individual's employment, including provisions that restrict a former employee's ability to solicit or accept competing business from customers of the former employer. "Covenant not to compete" includes a covenant or agreement that restrains, prohibits, or otherwise restricts an employee's ability to compete with former co-owners of interests in a business entity following the employee's dissociation from or the termination or dissolution of the business entity.

"Physician" means any physician, chiropractor, psychologist, or podiatrist licensed to practice in the Commonwealth.

B. Any covenant not to compete that restricts the right of a physician in the practice of practice medicine or osteopathic medicine, as defined in § 54.1-2900, upon the termination of an employment contract or the physician's dissociation from or the termination or dissolution of a business entity, shall be void; however, all other provisions of an employment contract or other agreement that sets forth rights of parties upon a person's dissociation from or the termination or dissolution of a business entity, including provisions that require the payment of damages in an amount that is reasonably related to the injury suffered by reason of termination of the employment contract or the dissociation from or the termination or dissolution of a business entity, shall be enforceable. Provisions that require the payment of damages upon termination of the employment contract or other agreement may include, but not be limited to, damages related to competition.

C. Nothing in this section shall serve to limit the creation or application of nondisclosure agreements intended to prohibit the sharing of certain information, including but not limited to trade secrets and proprietary or confidential information.

INTRODUCED

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