

Testimony in Support of LD 2200 “An Act to Prohibit Noncompete Clauses for Health Care Professionals as Recommended by the Commission to Evaluate the Scope of Regulatory Review and Oversight over Health Care Transactions That Impact the Delivery of Health Care Services in the State”

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Good Morning Senator Bailey, Representative Mathieson, and members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services. My name is James Myall and I’m a policy analyst at the Maine Center for Economic Policy. I’m testifying today in support of LD 2200, “An Act to Prohibit Noncompete Clauses for Health Care Professionals as Recommended by the Commission to Evaluate the Scope of Regulatory Review and Oversight over Health Care Transactions That Impact the Delivery of Health Care Services in the State.” MECEP supports LD 2200 because noncompete agreements distort the labor market, reduce worker power, and harm patients.

In general, noncompete agreements benefit employers to the detriment of workers. They are sometimes portrayed as a negotiation between each party, but one large national survey found that only 10% of employees with a noncompete agreement negotiated them, and one third only received their noncompete agreement after they’d already accepted the job offer.ⁱ In a labor market like health care which is dominated by a handful of large health care systems in Maine, the power imbalance is tilted even further in favor of the employer.

Noncompete agreements allow employers to reduce labor market mobility and stifle employees’ bargaining power. In that way they hurt both individual workers and the economy as a whole. When workers are prevented from changing jobs by a noncompete agreement, it means they can’t move to a new job with better working conditions or higher wages. It also means that their current employer doesn’t have to offer them better terms to stop them moving. The overall effect is to hold down wages and benefits,ⁱⁱ particularly for women and people of color.ⁱⁱⁱ

At the same time, restricting worker mobility is harmful for the economy more broadly. When a non compete agreement prevents a nurse or a doctor from switching jobs, it also means a hospital with a greater need for providers can’t find them. Noncompete agreements stop the market functioning the way it should and matching the supply of labor to the demand for services.

This ultimately impacts patients. When a hospital can't find employees because they're tied up in Noncompete agreements, it means patients face longer waiting times for services, have less choice about which doctor ultimately sees them, and worse care from the overworked staff who are available. One study found that states that restricted noncompete agreements have more physicians and more practices.^{iv}

Thank you for your time. I urge you to vote "ought to pass" on LD 2200, and I'm happy to answer any questions.

Notes

ⁱ Evan P Starr, JJ Prescott, and Norman D Bishara, "Noncompete Agreements in the U.S. Labor Force." *Social Scholars Research Network*. Oct 2020. <https://ssrn.com/abstract=2625714>

ⁱⁱ Ibid.

ⁱⁱⁱ Johnson, Matthew, Kurt Lavetti and Michael Lipsitz, "The Labor Market Effects of Legal Restrictions on Worker Mobility." *Social Scholars Research Network*. June 6, 2020. Available at <https://ssrn.com/abstract=3455381> and Matt Marx, "Employee Non-compete Agreements, Gender, and Entrepreneurship." *Cornell S C Johnson College of Business*. 24 Aug 2020. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3173831

^{iv} "Association between Physician Noncompete Agreements and Healthcare Access." *Social Scholars Research Network*. 15 Nov 2023. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4630026