



Jul 10, 2025

Categories:
[Publications](#)

Authors:
[Michael A. Freimann](#)

2025 Mid-Year Update on Non-Compete Agreements

There is not an area of law more fluid than non-compete restrictions. As detailed in our earlier client alert about [2024 developments](#), non-competes still are a hot topic for both the federal government and individual states. The following is a mid-year summary on non-competes.

Federal Agencies Leave the Door Open for Further Action Against Non-Competes

Action by the FTC

The Federal Trade Commission's (FTC) 2024 rule adoption was rejected by multiple federal courts last fall. Many expected the incoming Trump administration to abandon challenges to non-compete agreements – that did not happen. The new chairman of the FTC, Andrew Ferguson, created a Joint Labor Task Force to investigate and prosecute “deceptive, unfair, or anticompetitive labor market conduct” and stated that noncompete agreements represented anticompetitive conduct within the FTC's jurisdiction. To make matters more confusing, the FTC chose not to dismiss court appeals filed by the Biden administration but instead requested a stay of those appeals for 120 days.

Action by the NLRB

As predicted, the Biden-era National Labor Relations Board's (NLRB) directives identifying non-compete agreements as violating the National Labor Relations Act (NLRA) and entitling employees to monetary damages if employers utilized unlawful non-competes were [rescinded](#). At this point, no new directives regarding non-competes have been issued by the NLRB and we predict the Trump-era NLRB likely will not issue similar directives.

State Court Refines Non-Compete Limitations and Standards

The Washington Supreme Court in *David v. Freedom Vans LLC* issued a clear reminder that non-compete agreements are presumptively invalid for low-wage workers in the state. Employers can only narrowly prohibit competition if reasonable and consistent with the duty of loyalty. The *David* court held a prohibition that employees refrain from engaging in “all kinds of assistance” with a competitor exceeded the required narrow construction for the duty of loyalty.

State Legislatures: Non-Compete Legislation

Virginia previously prohibited non-compete agreements for low-wage employees (employees who earn less than the average weekly wage in Virginia). This year, it expanded that protection to any employee who is entitled to overtime compensation under S.B. 1218. Virginia does not limit the creation or application of non-disclosure agreements to protect information to which employees have access whether it is trade secrets, proprietary, or confidential information.

In April, the **Florida** legislature passed (HB1219 or Florida Contracts Honoring Opportunity, Investment, Confidentiality, and Economic Growth (CHOICE) Act (“The Act”). The Act permits four-year non-compete agreements if the restricted worker had seven days to review it and knew they had a right to legal counsel at the time of review. The Act also addresses garden leave arrangements between employers and employees or contractors earning twice their home county’s annual mean wage. Employees may agree to not resign before a notice period of up to four years and employers may agree to retain the employee for the duration of said notice period with the same salary and benefits. The Act has been presented to Governor DeSantis and will likely be signed soon – taking effect on July 1, 2025.

Kansas amended its restraint of trade act to explicitly protect covenants not-to-compete by stating they are presumed to be

enforceable but modified the permitted duration depending on the relationship between the contracting parties in [SB 241](#). Non-competes between employers and employees cannot exceed two years in duration. If the non-compete is between an owner and a business entity with regard to interference with employees or customers, the duration is limited to four years.

Changes In and Outside of Healthcare

Colorado has continued to enact pro-employee legislation and with that, modified the state's non-compete exceptions and conditions. Colorado permits non-compete agreements for highly compensated workers when the covenant is to protect trade secrets or if the non-compete relates to the sale of a business. In the new update to Colorado's non-compete law, the state added a time limit for non-compete agreements with individuals with minority ownership or ownership via equity compensation. The duration of the non-compete time must not exceed (in years) the number derived from the total compensation received by the individual from the sale of a business divided by the average annualized cash compensation received by the individual over the prior two years from their affiliation with the business.

Additionally, the state created a non-compete exception for highly compensated workers if the employees are individuals practicing medicine, advanced practice registered nursing, and dentistry. Such individuals are protected from non-competes entirely and are additionally allowed to share updated contact information with patients from their previous practice group.

No Non-Competes for Health Care Workers, Even if Highly Compensated

Arkansas recently passed [2025 Arkansas Laws Act 232 \(S.B. 139\)](#), which prohibits non-competes from limiting the ability of physicians to practice within their scope of practice. Arkansas previously had required non-compete agreements to be reasonable based on the nature of the protectable business interest, the geographic scope of the business, the specificity of the non-

compete, and the nature of the employer's business.

Indiana now prevents physicians from entering new non-compete agreements with a hospital, hospital parent company, affiliated managers of hospitals, or hospital systems. Previously, Indiana only prohibited non-compete agreements for primary care physicians.

Texas generally permits non-compete agreements if they are reasonable with regard to time, geographical area, and scope of activity as needed to protect goodwill and other business interests but will have additional limitations on non-competes when applied to health care practitioners beginning in September 2025.

Physicians in Texas were already guaranteed access to a list of their patients and their medical records. They also could provide continuing care for specific patients during an acute illness who had been treated in the year prior to the termination of the physician's employment. With the new legislation, health care practitioners (including physicians, dentists, nurses, and physician assistants) must be able to buy out of a covenant in an amount that is not greater than their total annual salary at the time of employment termination. Health care practitioner covenants are limited to one year, a five-mile radius, and must have clear and conspicuous terms in writing.

Further, if a physician is involuntarily discharged from a contract or employment without good cause, a covenant not to compete is void and unenforceable against the physician.

Utah enacted [S.B. 228](#) (Utah Code Ann. § 58-89-101) prohibiting health care services platforms from requiring health care workers to enter into a non-compete agreement. This legislation is primarily targeted at protecting the mobility of health care workers who act as independent contractors at larger health care facilities.

Wyoming generally prohibits non-compete agreements and recently enacted further non-compete protection for physicians as well as ensuring physicians can share their contact information after leaving a practice with previously treated patients with rare disorders in [SF0107](#). Wyoming permits some non-compete agreements when related to the purchase or sale of a business, as

needed to protect trade secrets, or when applied to executive and management personnel and their professional staff.

The Multi-State Employer Conundrum

With non-competition laws constantly changing and evolving, it is important for multi-state employers to carefully track state and federal updates and tailor their non-compete agreements accordingly. Beyond question, the enforceability of “one-size-fits-all” non-compete agreements is questionable at best. For more information, or assistance in tracking these developments, please contact Michael Freimann or any member of Frost Brown Todd’s [Labor and Employment Practice Group](#).

****Melissa Lowe a first-year law student at University of Colorado, contributed to this article while working as a summer associate at Frost Brown Todd.***

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.