

The Legislature  
of the  
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 96

SENATE BILL 325, as amended

Introduced by

SENATOR STUART INGLE AND SENATOR PETE CAMPOS  
SENATOR CARROLL H. LEAVELL  
SENATOR GERALD ORTIZ y PINO  
SENATOR CLIFF R. PIRTLE  
SENATOR CLEMENTE SANCHEZ  
SENATOR JOHN ARTHUR SMITH  
SENATOR LISA TORRACO



# CHAPTER 96

## AN ACT

RELATING TO PUBLIC HEALTH; MAKING NON-COMPETE PROVISIONS IN  
CERTAIN HEALTH CARE PRACTITIONER AGREEMENTS UNENFORCEABLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

### SECTION 1. DEFINITIONS.--As used in this act:

A. "agreement" means a written contract to which a  
health care practitioner is a party; and

B. "health care practitioner" means:

- (1) a dentist;
- (2) an osteopathic physician;
- (3) a physician;
- (4) a podiatrist; and
- (5) a certified registered nurse

anesthetist.

### SECTION 2. ENFORCEABILITY OF A NON-COMPETE PROVISION.--

A non-compete provision in an agreement, which provision  
restricts the right of a health care practitioner to provide  
clinical health care services, shall be unenforceable upon  
the termination of:

A. the agreement;

B. a renewal or extension of the agreement; or

C. a health care practitioner's employment with a  
party seeking to enforce the agreement.

### SECTION 3. ENFORCEABILITY OF OTHER PROVISIONS.--

1 Nothing in this act shall be construed to limit the  
2 enforceability of:

3 A. a provision in an agreement requiring a health  
4 care practitioner who has worked for an employer for an  
5 initial period of less than three years to repay all or a  
6 portion of:

7 (1) a loan;

8 (2) relocation expenses;

9 (3) a signing bonus or other remuneration to  
10 induce the health care practitioner to relocate or establish  
11 a health care practice in a specified geographic area; or

12 (4) recruiting, education and training  
13 expenses;

14 B. a nondisclosure provision relating to  
15 confidential information and trade secrets;

16 C. a nonsolicitation provision with respect to  
17 patients and employees of the party seeking to enforce the  
18 agreement for a period of one year or less after the last  
19 date of employment; or

20 D. any other provision of an agreement that is not  
21 in violation of law, including a provision for liquidated  
22 damages.

23 SECTION 4. LIQUIDATED DAMAGES.--

24 A. An agreement may provide for liquidated damages  
25 in an amount that is reasonable at the time the agreement is

1 executed and in light of anticipated harm and difficulty of  
2 proving the amount of loss resulting from breach of the  
3 agreement by any party.

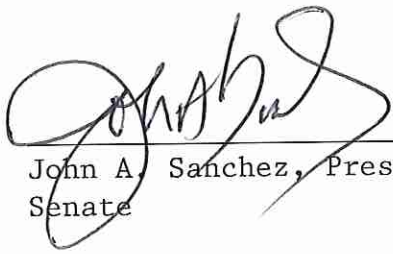
4 B. A provision in an agreement fixing unreasonably  
5 large liquidated damages is void as a penalty.

6 SECTION 5. APPLICABILITY.--

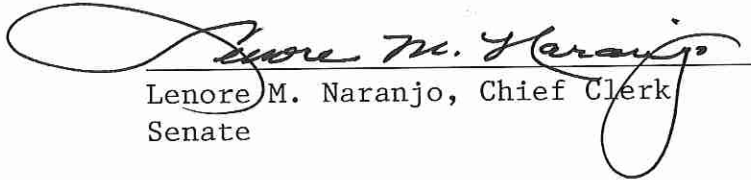
7 A. This act does not apply to agreements between  
8 health care practitioners who are shareholders, owners,  
9 partners or directors of a health care practice.

10 B. The provisions of this act apply to agreements,  
11 or renewals or extensions of agreements, executed on or after  
12 July 1, 2015. \_\_\_\_\_

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



John A. Sanchez, President  
Senate



Lenore M. Naranjo, Chief Clerk  
Senate




Don L. Tripp, Speaker  
House of Representatives



Denise Ramonas, Chief Clerk  
House of Representatives

Approved by me this 8<sup>th</sup> day of April, 2015

  
Governor Susana Martinez  
State of New Mexico