

Submitter: John Karth
On Behalf Of:
Committee: Senate Committee On Rules
Measure: HB4130

I am one of the owners of a small ophthalmology practice based in Lane County that has served local patients for decades, both in the Willamette Valley and the Oregon Coast. Our practice has five physician owners, all Oregonians, and we have never been the sort of large out-of-state companies that this bill targets.

Yet the effort to retroactively invalidate non-competes entered into by physician owners of a medical practice (as opposed to employees) will substantially and directly undermine the benefit of the bargain negotiated between physician owners who buy and sell ownership interest in community-based medical practices every day in Oregon. Non-compete provisions in such agreements between owners (that are valid under current Oregon law) allowed physicians in groups like ours to sell interests to new physicians and give them immediate access to the entire practice with all of the patient goodwill that comes with such access. It also allows practices to make the necessary investments to serve the community with the assurance that these investments are prudent. With this act largely eliminating any source of external investment in medical practices outside of already dominant hospital systems, these investments by practicing physicians owning small community practices are vital. The non-compete agreements among practice physician owners are important because the price on which these agreements were negotiated was based on an assurance that new physicians from out of state would not buy into a practice for a short period, generate relationships with a long-standing practice's patients, and then immediately open up a competing practice in the same community. Changing the law retroactively on non-competes entered into by physician owners of practices fundamentally alters those contracts without giving current owners any protection. Such retroactive application of new rules fundamentally harms small community-based medical practices in Oregon. Such medical practices have nothing to do with the harms meant to be addressed by this bill.

I support the legislature's efforts to limit the influence of corporations in the practice of medicine, and many of the provisions of this bill would be a net positive for Oregon. However, I strongly urge the legislature to apply changes to non-compete rules governing ownership between small physician-owned practices going forward if necessary, but not retroactively. This will allow physicians to negotiate agreements with full knowledge of the governing rules and ensure that past agreements are not invalidated in a piecemeal manner that does unnecessary harm.