

April 5, 2023

The Honorable Lina M. Khan
Chair
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

SUBMITTED ELECTRONICALLY VIA <http://www.regulations.gov>

Re: Non-Compete Clause Rule (RIN 3084-AB74)

Dear Chair Khan:

On behalf of the Endocrine Society, thank you for the opportunity to provide comments on the proposed Non-Compete Clause Rule. Founded in 1916, the Endocrine Society represents approximately 18,000 physicians and scientists engaged in the treatment and research of endocrine disorders, such as diabetes, hypertension, infertility, obesity, osteoporosis, endocrine tumors and cancers (i.e., thyroid, adrenal, ovarian, pituitary), and thyroid disease. The Endocrine Society represents many physicians who have been required to sign non-compete clauses and we appreciate the Federal Trade Commission (FTC) taking steps to clarify issues and prevent unfair competition related to non-compete clauses at the federal level.

The Endocrine Society supports this proposed rule, which would prohibit employers from requiring their workers, including physicians, to sign non-compete clauses. Our member physicians' experience with non-compete clauses has been that they create adverse effects on the delivery of health care and are overly restrictive and burdensome to physicians.

Non-compete clauses restrict access to care - Many of our members work in large hospital systems or large medical practices and currently must adhere to non-compete clauses. The non-compete clauses make it nearly impossible for a physician to provide care to their established patients in the event they leave their system or practice. This compounds the problem of a shortage of endocrinologists, particularly in rural areas. One study found that 78.5 percent of counties in the United States have no practicing endocrinologist, which results in patients having to



travel long distances and endure significant wait times to get the care they need.¹ Since medical practices are increasingly owned by large hospital systems, the geographical boundary set by these agreements makes it nearly impossible for a physician to leave that system without completely uprooting their life or commuting long distances. Non-compete clauses exacerbate this problem because they place limitations on the physician, which can result in increased shortages and further restrictions on access to care.

Physician burnout - There is also evidence that non-compete clauses contribute to physician burnout. Physician burnout is already a major concern within the endocrinology subspecialty. One [study published in 2020](#) reported that 47% of endocrinologists report feeling burnt out and it is very likely that this number has risen. Non-compete clauses exacerbate burnout because physicians with them cannot advance their careers in other hospitals or large medical practices in their area. We hear from our member physicians that they feel they have no opportunity to develop their careers in their area or negotiate promotions, obtain different hours, and change employment requirements.

Physician-patient relationship - We believe protecting and maintaining the physician-patient relationship is critical in the delivery of care. Our members talk frequently about the importance of building relationships with their patients living with diabetes, obesity, and other endocrine conditions. Non-compete clauses can be disruptive to the physician-patient relationship, particularly if a physician chooses to leave a provider group and is restricted from providing care for a certain period of time. This means a patient cannot continue seeing the physician familiar with their particular case and circumstances. The patient may not be able to find another physician in the area with the necessary expertise or will have to start anew.

The Endocrine Society has strong concerns with non-compete clauses because of the restrictions they place on physicians and the care they provide to patients. Non-compete clauses are not in the best interest of the physician or their patients, and we believe that employers should focus on creating an environment that incentivizes physicians to stay at their practice rather than enforce damaging or burdensome restrictions on their employment. Consequently, we strongly support the proposed rule and urge the FTC to finalize these proposals.

¹ Goodson JD, Shahbazi S, Song Z. Physician Payment Disparities and Access to Services-a Look Across Specialties. *J Gen Intern Med.* 2019 Nov;34(11):2649-2651. doi: 10.1007/s11606-019-05133-0. Epub 2019 Aug 5. PMID: 31385213; PMCID: PMC6848648.



Thank you again for the opportunity to comment on the Non-Compete Clause Rule. We appreciate your attention and consideration of our comments. If you have any questions, please reach out to Rob Goldsmith at rgoldsmith@endocrine.org.

Sincerely,

A handwritten signature in black ink that reads "Ursula Kaiser".

Ursula Kaiser, MD
President
Endocrine Society