

5/23/23 - JSH Remarks to Honorable Members of the New York State Senate Standing Committee on Commerce, Economic Development and Small Business (Chair: Senator Sean M. Ryan) and the New York State Senate Standing Committee on Labor (Chair: Senator Jessica Ramos).

Thank you Senators Ryan and Ramos, as well as the other committee members for inviting me to speak with you today, I greatly appreciate the opportunity.

Intro/Bio:

Jonathan S. Halpert MD

Graduated from Skidmore College in 1984 and Albany Medical College in 1998

Completed emergency medicine residency at Albany Medical Center Hospital in 2001

Fellow of the American College of Emergency Physicians

Past President and current Government Affairs Chair of the North East Regional Urgent Care Association

Member of the Health and Public Policy Committee of the Urgent Care Association of America

Executive Board member of the Albany County Medical Society

Member of the Medical Society of the State of New York and the AMA

Worked as an emergency physician at St. Peter's Hospital and Albany Memorial hospital as an employed physician through 2007, then transitioned into urgent care medicine, first as the employed urgent care medical director for the now defunct Prime Care Physicians

group in Albany, then as the employed urgent care medical director for St. Peter's Health Partners.

Left St. Peter's at the end of 2017 and founded Priority Medical Services PLLC, opening Priority 1 Urgent Care.

I have continuously owned and operated Priority 1 as an independent small business located in Guilderland NY since its inception in April 2019.

Statement:

As a practicing physician and medical practice owner, I wholeheartedly support Senate Bill 3100, prohibiting non-compete clauses as they pertain to medical employment agreements, whether they be imposed by a hospital, a health system, a private equity company, or a private physician practice. My practice's physician recruitment advertising (which is not currently active), has since day 1 of our existence, proudly promoted the fact that we do not have and will not include non-compete clauses in our employment agreements.

Medical non-compete clauses are inherently unfair and are ultimately counterproductive, only serving to diminish access to a community's vital health care resources. They are based in the misguided belief that a physician's book of business in some way belongs to entities other than the doctor, whose efforts are almost solely responsible for patient recruitment and retention, and that if a doctor were to leave a practice but remain within the same geographic area, would end up "taking their patients with them". This is not a completely incorrect observation, but fails to take into account the employer's basic

obligation to strive to retain valued employees. The employer's overarching logic is that they have provided the physician the means to work, see patients, and earn income. True to a limited extent, but those aspects are fundamental to any employer-employee relationship; a physician should not be particularly penalized by virtue of their degree and license. Non-compete logic and tradition also fails to take into account that within so-called "on-demand" medical disciplines like urgent care medicine, emergency medicine, and hospitalist medicine, all of which employ a substantial number of New York's physicians, there is no subscribed patient base comprising that book of business. As such, I fail to realize any actual benefit in engaging a restrictive employment covenant when hiring a physician.

Many states prohibit non-compete clauses in physician employment agreements. It's time New York joins the ranks of other more progressive states, enacting legislation like S3100, to help turn New York from its historic place as one of the least physician friendly places to work, encouraging more doctors to come into the state, and dissuading those that are here from having to move out of New York, in order to escape the archaic, unfair, and counterproductive prohibitions of their employment agreements.