

Constituent Support for the FTC's Noncompete Rule



West Virginia | Statewide Impact

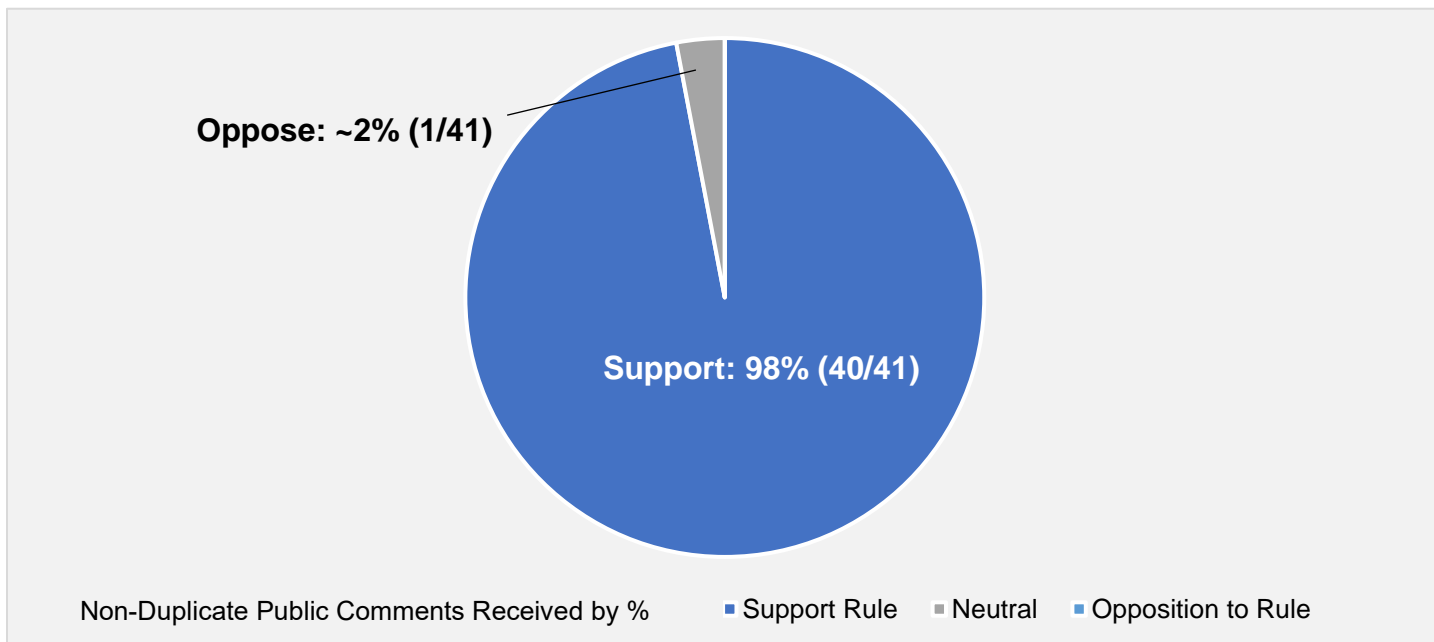


On April 23, 2024, the Federal Trade Commission issued a **final rule** to promote competition by **banning noncompetes** nationwide, protecting the fundamental **freedom of workers** to change jobs, **increasing innovation**, and fostering new **business formation**. The FTC estimates that the final rule will result in **8,500 more new businesses** each year, and **\$400-488 billion in increased wages** over the next decade, including for **West Virginia**:

West Virginia Covered Workers	Increase in Total Annual WV Worker Earnings	Increase in Average Annual WV Worker Earnings
539,026	\$253,817,680	\$471

[Estimated Increases in Total Annual and Average Worker Earnings by State \(ftc.gov\)](https://www.ftc.gov)

Notice of Proposed Rulemaking: 40 of 41 WV Commenters Support



Support Across Sectors of West Virginia's Economy

*Some comments condensed due to length.

Profession	Comment
	<p>"As a dermatology physician assistant in a rural state, I stayed in a toxic work environment for over 5 years. I was stuck in a job that kept taking away my original benefits one by one. It also negatively effected my income. My employer only gave me one raise in 5 years. It impacted my mental health, and negatively effected my personal life. I recently took a job an hour away to comply with my non-compete. It is a much better work environment, and I received a \$25,000 dollar raise as well 3 additional weeks of vacation and 3 weeks of sick leave. If I hadn't had a non-compete I would have been able to transition to a better position both mentally and financially much sooner."</p> <p style="text-align: right;">-Megan</p>
	<p>"Please pass this. Do something to actually help workers, the majority of Americans, that have continually been getting shafted. No business has the right to hold workers hostage by threatening to sue them for changing jobs; it's immoral, (unjust) and needs to be illegal. Changing jobs has increased my salary from 40k to 135k over the last decade. I signed several non-competes, but took the chance that they were unenforceable, and improved my life vastly by doing it. Outlaw them so no one has to feel held hostage to a job, and scared to change jobs. It's not only better for workers, but better for business. Workers learn more skills by changing jobs, and become better employees overall. And the better businesses will grow while stagnant businesses can't hold onto cheap workers by threatening."</p> <p style="text-align: right;">-David</p>
	<p>"I am a physician and fully support getting rid of the non compete. It is detrimental to society to have hospitals determine who patients can get access to in their area based on the sole interest of the hospitals. Non competes solely exist to for their best interest and takes the incentive to treat physicians better by holding them hostage to the threat of needing to relocate their family if the want to change jobs. The is the complete opposite of what America Stands for and I really support the move to void non compete clauses."</p> <p style="text-align: right;">-Semeret</p>
	<p>"Being a small blue collar salesman from West Virginia in the coal industry, noncompete agreements have caused me much strife. Companies require that you sign one to keep you stuck in a job where they will pay you low wages, instead of letting you move to a competitor who is willing to pay you more. I get a nondisclosure agreement from sharing trade secrets but most of these low paying sales jobs everybody knows what everybody else is doing already. When you're barely making it paycheck to paycheck, you should be able to switch jobs freely for one that will better your situation and your family. Please get rid of noncompete agreements They have caused me horrible anxiety."</p> <p style="text-align: right;">-T</p>

Additional Support from West Virginia

*Some comments condensed due to length.

Constituent First Name	Comment Highlights
Jason	<p>"To whom it may concern. I am a physician, and I am under a noncompete in West Virginia . Which is an underserved area .. as it stands if I were ever to seek new employment, I would have to move further worsening the physician shortage in my area. This is unfair to my patients. A hospital system called Mountain health now has a monopoly in my area after buying up several local hospital systems. Though I am well compensated my pay falls far below national average for my field. I want to help the patients of my home state always and I do not want to move. if non-competes were abolished I could better negotiate my salary. Likewise, I could start my own weight loss clinic on the side, which is something my area desperately needs as I feel mountain health is failing their patience in this area. Thank you very much ! I'm summary. Non-competes give an unfair advantage to the employers in an employee , employer relationship and stifles competition. And we all know that competition is great for the economy please abolish noncompete's."</p>
Ali	<p>"Non-Compete clauses in physician contracts are unjust and forces physicians to either stay in a situation that is uncomfortable or risk disturbing their life entirely by having to move from what you have built for years. Most industries doesn't have such restrictive clauses in their contracts."</p>
Tania	<p>"Clinician shortages are rapidly increasing, in part due to lack of job mobility for clinicians. When clinicians aren't able to switch jobs to fine better fits without having to relocate themselves or their families, they make hard choices, which can include leaving the profession or cutting back clinically. Additionally, noncompetes give the employers unfair leverage. If clinicians are afraid of being fired or otherwise retaliated against because they have a noncompete and are unable to move, they are less able to effectively advocate for themselves or their patients. This can include speaking out against unsafe or unfair working conditions, negotiating fair contracts that help prevent clinician burnout, advocate for safe staffing, or speaking out against patient safety issues. To exclude nonprofit hospital systems, would render the proposal much less effective for clinicians given that the majority of hospital systems in the US are `nonprofit' in name. The proposal should be revised to include all hospital systems."</p>
Eric	<p>"I would support the proposal regarding non-compete clauses, based on how non-compete clauses have affected my career and the careers of others in my field. The proposed legislation should not exclude physicians and other professionals. In my geographic region, two hospital systems control every hospital within a 2 hour drive. My current contract contains a non-compete that does not allow me to work for a competitor within a 50 mile radius liar a term of 1 year. This is a standard term in physician contracts with my employer. This prevents the smaller hospital system in the area from recruiting from the talent pool of the larger healthcare system. There are a limited number of fellowship-trained physicians willing to move to my (admittedly) rural area. If someone decides they like the area but do not like working for the larger corporation, they are not able merely switch employers. This</p>

	<p>is beneficial for the larger corporation, but not necessarily for access to specialty care for those patients whose insurance only covers the smaller hospital system, as it disadvantages that smaller corporation from recruiting specialists. Personally, I would have to move to a new area, work locums, or have a 100 mile drive daily for a year if I wanted to switch employers, even though my skill set is in demand. The non-compete clauses in my contract hurts me, the smaller regional hospital corporation, and ultimately patients in the area who cannot (because of out of network insurance costs) utilize the larger hospital corporation network. The only entirety benefitting from the non-compete is the larger corporation that already has significant power due to owning over half of local hospitals and physician offices. The proposed rule would remove the stifling effect these non-compete clauses bring to business."</p>
<p>Madison</p>	<p>"As someone who lost an opportunity to work for a company due to a non-compete clause, I support this rule and would like to see it passed. Non-competes are rampant in my industry of speech- language pathology and prevent many from obtaining optimal employment."</p>
<p>Michelle</p>	<p>"Non-competing agreements create an indentured servitude - without a termination date. This is far worse than the agreements so common in the 16th and 17th century. Young people come out of college with a great deal of debt - and they simply cannot afford to work for less wages for years while they wait for the expiration date of the agreement. Nor can they afford to relocate in order to find employment in a locale far enough away to meet the provisions. Some agreements purport to survive even after the termination of the employee - So once signed, an employee cannot seek an increase in pay, advancement in his profession or duties, and if he is fired, he still cannot see employment elsewhere. Thus they work under complete duress - without any of the protections and opportunities provided in truly market driven system. This is simply a new form of feudalism with the serf being bound by all practicality to the first employer he works for. My son-in-law has been trapped in a job for over a decade due to non-compete agreement. Many attorneys have confirmed that the agreement is binding. H Companies use these to avoid short term perceived losses - however, all markets - and therefore our US economy flourish best when it allows workers to move and progress to a situation which best uses their talents - and companies gain much with employees who have had varied experiences and training Trade secrets are well protected under existing law - Corporate practices have already de-personalized their marketing - so loss from an employee leaving (ie a doctor from a medical practice) is already limited since a corporate name is attached to the clinic and clients/customers/patients are processed and marketed toward loyalty to a corporate brand rather than individual professionals. Thank you for your time and consideration. Young employees are usually unaware of these type of contract provisions and are hire after simple verbal interview applications. Much paperwork is presented them and they sign totally unaware of the trap. Those that are aware - are pressured into signing and often have been told by their parents that the provisions are unenforceable and not worry about them. Once signed"</p>
<p>Allison</p>	<p>"I agree that a non-compete clause is unfair."</p>

Jill	"Please repeal this rule. I work in healthcare in rural West Virginia. If you were treated badly by one employer and choose to leave, you have to drive 30 miles or find something totally out of your field. We have shortages in our job and they regulate a monopoly on the providers and prevent patients from getting the care they deserve. It makes you stay in a situation where you were treated poorly because you can't afford to move. Please help us."
Dina	"Dear F.T.C. Members; Thank you for your proposed rule to ban the use of noncompete clauses in future employment contracts and void such clauses in existing contracts. The noncompete clause has unjustly damaged many workers' careers and their lives. Whatever benefit they give employers, notably the ability to keep wages noncompetitive, which itself is unjust to low-paid workers, is not worth the hardship they cause. I hope you will support the ban of the use of such clauses. Sincerely, Dina Coe"
Diane	"I support FTC regulation to ban non-compete agreements, NPRM"
Diane	"Ending non-compete agreements will allow workers more freedom and more opportunities and options. Employers will compete for employees which is a hallmark of free markets."
Diane	"Please ban non-compete clauses. They restrict competition that is necessary in a healthy market system They also prevent laborers from getting better jobs and improving their situations."
Martin	"I was brought on by a contractor to work for a gas company. Upon landing my dream job which I was told 'this is who we are hiring through fill out the application and we will get you an interview" so the contractor did not even recruit me offered no incentive but required me to sign a a non compete. Now he refuses to give any adjustments do to higher travel mileage or positive performance reviews. While I have peers doing the same work making \$100 more a day receiving health insurance better 401k options and the ability to go work 1099 instead of W2 which would save me even more money. All because of this non compete I had had no option in siting which offered me nothing in return. Now he doesn't feel the need to take care of me as an employee rather feels it's better to threaten that I can't leave. He literally does nothing for me or the other few unfortunate enough to be hired on through him at that time period, but some how we can't leave him. I could make \$30,000 more a year through multiple other companies, but instead my family struggles because of him threatening to file a lawsuit if I leave. I had to quit paying for my medical insurance because of all of my bills and am developing what might be skin cancer but can't afford to go to a doctor and work 242 days out of the year in a salary position"
MATTHEW	"As a practicing primary care family physician, I whole- heartedly support the elimination of non-compete clauses. While there are countless arguments to be made, the most important is the undeniable fact that non-compete clauses cause greatest harm to those our healthcare systems is meant to provide for, our patients. Non-compete clauses in the primary care setting legally coerce physicians into abandoning their patients by forcing providers out of the immediate geographical area. Therefore physicians are often times left with the choice to be

	<p>at the mercy of their employer or choose to leave their patients behind and physically relocate their practice to another area. As a provider the most infuriating aspect of non-compete clauses in healthcare, is the fact that health care would not exist without the very medical providers and patients that non-compete clauses seek to harm. A move to ban non-compete clauses from medicine is a move towards restoring fairness and promoting equity for both providers and patients within our health care system. Sincerely, Dr. M"</p>
Philip	<p>"Physicians took an oath to put patients first, they also have a fiduciary responsibility to their patients. The corporate practice of medicine is illegal in most states. Noncompete agreements are in direct conflict with the ethical practice of Medicine because they put Physicians at risk of being strong, armed into practicing unethical medicine, and into putting their employers over their patients. Physician should have a right to work and move freely just like every other person. Physicians are the value creators. There's no intellectual property or business value that is created by health system employers -they bring patients and doctors together, they are compensated, handsomely for that service, and they should have no further influence or jurisdiction over the practice of medicine."</p>
Gary	<p>"Originally, NDAs were designed to protect trade secrets from being transferred to competitors. They have been greatly expanded as a tool for wage suppression. Burger flippers can change jobs? This is a gross over-reach. Please ban these ASAP."</p>
Bethany	<p>"Non competes need to end. I live in a rural community where there is a need for physicians. My current contract has a 20 mile non compete for 1 year. This may not seem like a long distance, but this is a rural, mountainous area where a 20 mile drive can take up to an hour and most physician offices are in similar locations due to terrain. Effectively, ending my contract means I will not get to practice in my hometown for a year otherwise I will be faced with ridiculous fees. The area needs physicians, so to make one sit out for a year because of location is ridiculous. Some people might argue to just go ahead and pay the fee, but as a part time primary care physician, the fee is 50-75% of my annual salary. It's criminal."</p>
Peggie	<p>"As a retired school teacher with an MLM business, not being able to share about another equally beautiful MLM hinders my ability to supplement my fixed income fully. Today most of our purchases are made online; the non-compete rule is antiquated and hampers social selling unfairly. Please remove the non-compete clause rule. Thank you, Peggie "</p>
Charity	<p>"To Whom It May Concern: I am writing to express my strong opposition to the use of non-compete clauses in contracts for healthcare providers. I urge the Federal Trade Commission to take action to prohibit the use of non-compete clauses in contracts for physicians. Such a prohibition would help to ensure that patients have access to the care they need, and would promote competition in the healthcare industry. These clauses or restrictive covenants unduly restrict employed or contracted providers from practicing medicine within a certain geographic area and/or for a specified period of time after leaving a practice or other employment situation. This can lead to loss in income and instability for healthcare providers and their families The use of non-compete clauses in physician contracts is harmful to the physicians and the patients they serve. Physician non-competes limit the mobility and job opportunities of physicians, and can prevent them from</p>

	<p>providing consistent care to patients in need. This leads to shortages of physicians in certain areas, and can make it difficult for patients to find the care they need. Furthermore, non-compete clauses in physician contracts can limit competition, which can lead to higher healthcare costs for patients. By limiting the number of physicians in a given area, non-competes can also limit the number of choices that patients have when selecting a healthcare provider."</p>
Thomas	<p>"I support the FTC proposed rule banning non-compete clauses. Over the years, I have had to sign one or more of them, always under duress. I STRONGLY urge the FTC to adopt the proposal to ban them."</p>
Mark	<p>"The Non-Compete Clause is anti-competitive, anti-American and should be gone."</p>
J	<p>"This is an excellent idea and I fully support this ban on non-compete clauses. As the name suggests these clauses are made to thwart competition in the free market. It limits workers ability to leverage their skills or leave a bad work environment. I particularly support this with regard to physicians. This will go a long way to help improve physician contracts and help the physician shortage!"</p>
Jennifer	<p>"I am a District Manager who worked for WIS International- was 1 of less than 100 people in the country who was a DM that serviced WalMart exclusively for their annual inventories. After 16 years my job position was eliminated and my Company still threatened me with the non compete I was forced to sign. This non compete, according to an attorney I consulted, said it was one like he had never seen in 43 years. It bans me from working in my field (which is already incredibly limited/specialized) or for any client I had serviced in the ENTIRE UNITED STATES. I didn't quit. Wasn't fired. My job position was eliminated as they have the contact for my territories to a new to the game company. People like me just want to work... been doing it since I was 14 years old- am 51 now. I don't want a handout, don't want public aid- I just want to work, doing what I'm good at, without the constant fear that I could be assured...at any time. My Company did a great job of reminding me all about the contract I signed- so much for big business doing the right thing by its people. Thank You, J in Ohio"</p>
Valerie	<p>"Non compete clauses are a travesty. They force people like me into continuing to work at an unsuitable job, unless you want to uproot your life and your family. They put all the power into the hands of owners and corporations, which can then treat you how they choose because they know they have you trapped. Please eliminate non competes for all professions and give workers the chance to negotiate fair deals."</p>
Jerld	<p>"As an employee bound by a non-compete clause this would be a great. My employer reminds us every year that we are bound by this rule and has threatened other employees after leaving that they have more money and will fight it till the employee is broke."</p>
Nick	<p>"please stand strong and ban non-competes. I've personally seen lives upended and upward mobility stifled because of them. Non-competes are anti- capitalistic and depress GDP growth."</p>

<p>Adam</p>	<p>"There is currently a shortage of medical providers in the US, and hospitals compound this with non compete clauses. Many Hospitals use non compete clauses to attempt to make sure physicians, physician assistants, and nurse practitioners are unable to work at other competing nearby locations if they decide to no longer work for their current hospital employer. This can force providers to move far away from the location to meet the criteria of the non compete. This can cause a noticeable shortage of properly trained providers, especially in rural areas where it can be difficult to entice certain medical specialties that now must move across country to escape a non compete. This negativity effects communities who now have to travel further for specific medical care. This is also difficult for the physicians, PAs, and NPs who must uproot their entire lives and move a far distance to be outside of the mile distance restrictions set by non compete clauses. Faced with moving to meet the requirements of the non compete the hospital has set or facing a breach of contract lawsuit for attempting to practice medicine in the same community is stressful for anyone. This is an unfair burden that should be removed to allow physicians and other providers to remain in communities they love and serve without having to face the strife of legal consequences non compete clauses place on them."</p>
<p>Thomas</p>	<p>"I would like to speak in favor of the ban on Non-compete clauses, particularly for physicians. I see two problems with non-compete clauses for physicians (and similar employees). First, the primary idea of a non-compete clause is to protect what is deemed as vital proprietary information or "trade secrets". As professionals, physicians go to school and then residency to learn how to do their jobs. They then take national tests to demonstrate competency in their ability to do that job. None of that information is coming from their employer, so there really are no "trade secrets" for the employer to protect. The second argument I've heard for allowing non-compete clauses is that it can be expensive for a company to recruit physicians and the companies feel they feel the non-compete clauses enable them to protect their investments. However, there are other ways that could be achieved. Off the top of my head, they could require a certain length of initial employment in the contract, to make sure that the employee was around long enough to offset the recruiting cost. And, if the employee leaves before that time, they could easily have a clause that a pro-rated amount of the cost incurred in recruiting them would have to be repaid. Of course, if the company wasn't so onerous to work for, they might not have such recruiting problems in the first place. The idea of non-competes also seems to be applied rather arbitrarily. For example, in the state of West Virginia, non-compete clauses are not allowed for lawyers, but are allowed for physicians. I wonder who made those rules? We need to create an atmosphere that allows for healthy competition in all professions/jobs There may be some instances (none come to mind at the moment) where non-compete clauses may be a valid idea to protect true trade secrets. In today's day and age, however, I would bet that there are very few true trade secrets that are not already protected via patents or other legal protections, that would justify use of this clause. In light of this, I am in favor of banning non-compete clauses in employment contracts."</p>

<p>Charles</p>	<p>"They should be banned. Businesses have abused them tremendously."</p>
<p>daniel</p>	<p>"Given the growth of large hospital systems, a noncompete clause for a physician often means that leaving a job would require a physician to leave the geographic area in which they practice. This raises several issues of the downstream effects of noncompetes in coercing physicians to accept conditions they are not comfortable with, eliminating checkpoints that market forces allow that ultimately would have led to better systems that served clinicians and patients, and contributing to the physician shortage. Physicians with noncompetes in their contracts are forced with the choice of uprooting themselves and their families each time they want to switch practice environments, and the daunting challenging of reestablishing a reputation and practice in a new location. Employers know this, and use it as leverage when physicians speak out against situations that are detrimental to patient care, inappropriate or illegal actions by their employers, or unreasonable/unsustainable working conditions. This can effectively hold physicians hostage at unfavorable working conditions for decades, while employers evade market forces that would necessitate change. It is hard to make the argument that a single physician leaving a large hospital system would significantly threaten the hospital system's business model. If many physicians want to leave simultaneously, this could affect a hospital system; however one would be forced to examine what the hospital system was doing wrong that so many physicians wanted to leave en block and not be a part of that hospital's mission. Arguably, this is exactly where market forces should come to play, and ultimately lead to hospital systems that better serve the needs of clinicians and patients. In a situation where physicians can't relocate geographically due to personal reasons, they are prevented from pursuing opportunities that are a better fit for them personally within their geographic locations (better pay, more flexibility, better hours, etc). When physicians are forced to work at jobs that aren't good fit, disillusionment with the field is growing at a time where clinician burnout is at an all time high. Therefore, many physicians are now electing to stop practicing medicine altogether rather than work at a job they don't enjoy, thus exacerbating the physician shortage and access to care nationally at a time where this is already a public health emergency. To be clear, there are nuances to this discussion and a blanket endorsement of the FTC proposal. As it is currently written, many lawyers have stated that the FTC proposal would not apply to nonprofit organizations. Given that the majority of the hospital systems in the country are classified as nonprofit in name despite the business model being the same as other healthcare entities, this would actively give nonprofit hospital systems an unfair advantage over independent physician practices and for-profit health systems. It is important to note that several of the hospital systems that produce the most in profits and pay their CFOs many millions a year are 'not for profit' in name. Therefore, this rule seems arbitrary, and if the FTC proposal was to have its intended consequence, noncompetes should be eliminated for both not for profit and for profit hospital systems. While it is hard to argue that a single physician leaving a hospital system would significantly affect the bottom line for a large hospital system, it is quite true that a single physician employed by a small independent physician practice could significantly hurt that independent practice by using the practice's resources to build a patient base and</p>

	<p>reputation, and then opening their own practice across the street. Given that the footprint of an individual practice is smaller than a hospital system, the argument that a physician wanting to leave that practice could still practice in the area without having to upnr their families is much more reasonable. Independent practices are a valuable player in the healthcare ecosystem, and preferred by many patients. Therefore, if a carve out in the FTC proposal is created in healthcare, it should be for independent practices, not for 'not for profit' healthcare systems, and be aimed at keeping independent physician practices viable. Therefore, as grassroots physicians and our supporters, we respectfully submit that noncompete clauses are detrimental to both physicians employed by hospital systems (both for profit and not for profit) as well as patients. Ultimately, noncompete clauses at large healthcare employers are detrimental to our nation's long term ability to maintain access to quality care, and should be outlawed."</p>
Kelly	<p>"Please get rid of these agreements they are horrible for the middle class working man who might need to change jobs to provide a better living for his family. Too many times I've been forced to sign a non compete then have to pass on a better paying job because of the agreement with my current employer."</p>
Ellen	<p>"I am writing to express my support for a ban on non-compete clauses in employment contracts, particularly in the healthcare industry. Non-compete clauses have a negative impact on labor markets and can contribute to physician burnout and worsen the physician shortage. Non-compete clauses limit a physician's ability to seek new employment opportunities, which can lead to decreased competition, lower wages, and less access to healthcare for patients. Furthermore, non-compete clauses contribute to physician burnout by limiting their professional autonomy and flexibility. In some cases, physicians may be forced to continue working in a situation that is not a good fit, which can lead to decreased job satisfaction, decreased quality of care, and ultimately physician burnout. More and more physicians are retiring early, or taking non-clinical jobs. Finally, the physician shortage in the United States is a growing concern, particularly in underserved areas. Non-compete clauses limit the mobility of physicians, making it more difficult to attract and retain physicians in areas that need them the most. For these reasons, I urge the FTC to consider a ban on non-compete clauses in employment contracts, particularly in the healthcare industry. Doing so would help to promote competition, increase physician mobility, and ultimately improve access to healthcare for patients. Thank you for your consideration. Sincerely, Ellen Thompson, MD Professor, Marshall University JCE School of Medicine"</p>
Charlene	<p>"I strongly support the ban on non-compete clauses. I feel it keeps salaries, benefit packages, and advancements down and stagnates the workforce by not allowing workers to freely move from one job to another for better pay and/or benefits in the same area that they reside. If a company/corporation is good and reputable they should not fear competition-their employees will voluntarily stay for decent pay, decent benefits, and a decent work environment-if they are not providing this their employees should be able to leave with no repercussions."</p>
Luke	<p>"More competition is always a good thing. Help the workers and raise their wages like the left wants. Stop anti-competition practices and be a true capitalist. Thank you for being proactive."</p>

Leandra	"I fully support prohibiting employers from implementing non-compete clauses that limit workers' freedom to explore opportunities."
Fri	"Non compete clause are evil. They get physicians trapped in jobs with low pay and mediocre benefits."