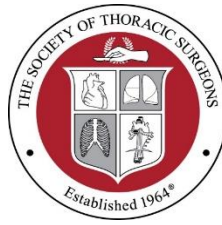


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April 24, 2023

The Honorable Scott Peters
United States House of Representatives
1201 Longworth House Office Building
Washington, DC 20510

The Honorable Mike Gallagher
United States House of Representatives
1230 Longworth House Office Building
Washington, DC 20510

The Honorable Anna Eshoo
United States House of Representatives
272 Cannon House Office Building
Washington, DC 20510

Re: H.R.731 - Workforce Mobility Act of 2023

Dear Representatives Scott, Gallagher, and Eshoo,

On behalf of The Society of Thoracic Surgeons (STS), I would like to thank you for introducing H.R.731, the Workforce Mobility Act of 2023, which would prevent employers from using non-compete agreements in employment contracts for certain non-exempt employees.

Founded in 1964, STS is a not-for-profit organization representing more than 7,600 surgeons, researchers, and allied healthcare professionals worldwide who are dedicated to ensuring the best possible outcomes for surgeries of the heart, lungs, and esophagus, as well as other surgical procedures within the chest.

As of January 2022, 74 percent of physicians are hospital or corporate employees. In a three-year [study](#) of employment performed by Avalere Health, 108,700 additional physicians transitioned to hospital or corporate employment. This trend of hospital or corporate employment is highlighted in the thoracic surgery subspecialty. Most thoracic surgeons perform procedures through a hospital-based practice (44.8 percent) or academic/university-based practice (33.6 percent).¹ **Since most thoracic surgeons are employed and not in private practice, they are impacted greatly by the requirements and terms of employment created by employers, including non-compete clauses.** Hospital and corporate employee contracts with non-compete clauses often prohibit a surgeon from working within a certain mileage/area. This means that when a surgeon leaves an employment agreement, they must relocate to find new work, often uprooting the family system in the process. Additionally, a 2007-2017 study found that 19 percent of hospital markets, which represented 11.2 million Americans, were served by one

¹ Ikonomidis JS, Boden N, Atluri P. The Society of Thoracic Surgeons Thoracic Surgery Practice and Access Task Force-2019 Workforce Report. *Ann Thorac Surg.* 2020;110(3):1082-1090. doi:10.1016/j.athoracsur.2020.04.004

hospital system.² **The continuation of hospital consolidation creates additional barriers to surgeons with non-compete clauses leaving an employment agreement. It unnecessarily reduces the career opportunities available for providers and affects the geographic distribution of surgeons by locking physicians into a specific employer rather than letting organic demand influence where and for whom cardiothoracic surgeons practice.**

Additionally, several studies have predicted a workforce shortage in cardiothoracic surgery in the U.S. by the year 2035. The Health Resources and Services Administration (HRSA) recently projected there will be 900 less thoracic surgeons practicing in 2035, while total demand over the same time period would increase by 20 percent, resulting in only a 69 percent adequate supply of physicians within the specialty.³ Physician burnout in cardiothoracic surgery is at an all-time high, likely due to the stress of the COVID-19 pandemic on providers⁴ and unnecessarily being tied to an employer could exacerbate physician fatigue leading to continued workforce shortage. **Non-compete clauses create further hurdles for cardiothoracic surgeons' deciding on, or transitioning between, employment opportunities and could disincentivize cardiothoracic surgeons from practicing in certain regions or systems.** The ban on non-compete clauses helps mitigate concerns around employment type and allows for thoracic surgeons to more easily decide on career opportunities that support their personal goals and community needs. By giving providers autonomy to make these decisions, it could help to address the workforce shortage by allowing cardiothoracic surgeons to be more competitive and create unique employment agreements that optimize their accessibility to patients.

Thank you for ensuring the best possible market for thoracic surgeons and in turn, increasing access to care for their patients. Please contact Molly Peltzman, Associate Director of Health Policy, at mpeltzman@sts.org, or Derek Brandt, Vice President of Government Affairs, at dbrandt@sts.org, should you need additional information or clarification.

Sincerely,



Thomas E. MacGillivray, MD
President

² Johnson, G., & Frakt, A. (2020). Hospital markets in the United States, 2007-2017. *Healthcare (Amsterdam, Netherlands)*, 8(3), 100445. <https://doi.org/10.1016/j.hjdsi.2020.100445>

³ <https://data.hrsa.gov/topics/health-workforce/workforce-projections>

⁴ Bremner RM, Ungerleider RM, Ungerleider J, et al. Well-being of Cardiothoracic Surgeons in the Time of COVID-19: A Survey by the Wellness Committee of the American Association for Thoracic Surgery [published online ahead of print, 2022 Oct 14]. *Semin Thorac Cardiovasc Surg.* 2022;S1043-0679(22)00254-4. doi:10.1053/j.semtcvs.2022.10.002