

Kevin Goldstein Discusses Implications of FTC Noncompete Ban on the Health Care Industry

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Winston & Strawn partner Kevin Goldstein was quoted in *Axios*, *Modern Healthcare*, and *MedCity* articles discussing the [recent block](#) of the Federal Trade Commission's nationwide ban on noncompete agreements and the implications for the health care industry. Following the federal judge's decision to block the FTC's noncompete ban, hospitals and other health providers are shifting their attention to how states opt to police the agreements.

In an interview with *Modern Healthcare*, Kevin said the ruling is a reprieve for employers that use noncompete agreements. But if the FTC's ban ultimately fails, state lawmakers and regulators may make these issues more of a priority.

California, Minnesota, North Dakota, and Oklahoma already ban nearly all noncompetes, while several other states have adopted health care-specific noncompete bans that apply to physicians or other health care workers.

Law firms have been advising health systems and other health care clients with the uncertainty to review and "future proof" their agreements as more states "look to take up the banner," Kevin told *Axios*.

Kevin told *MedCity* that nonprofit hospitals and health systems generally would not have been affected by the noncompete ban. Under the FTC Act, the commission has jurisdiction over corporations that are "organized to carry on business for its own profit or that of its members." However, even if a healthcare organization is incorporated as a nonprofit and has IRS tax-exempt status, that doesn't automatically make it outside of the FTC's jurisdiction. Kevin stated that the "FTC applies a unique test to weigh whether the entity is actually organized for profit of the corporation or its members."

He added that there are many valid reasons for employers to use noncompete agreements, including protecting intellectual property and trade secrets, and protecting their investment in training workers. He noted, however, that there are other tools employers can implement to protect their interests, like non-disclosure agreements, non-solicitation agreements, or training repayment programs.

Winston antitrust and labor attorneys have outlined many options in addition to noncompetes that can help protect a company's legitimate interests when workers depart in [prior blog posts](#). Reach out to Kevin or another member of the Winston team with any questions about what your business can do to navigate the changing landscape.

Read the full articles here:

- “Fight over health noncompete pacts far from over,” [Axios](#)
- “Healthcare employers await FTC’s next move on noncompete clauses,” [Modern Healthcare](#)
- “A Federal Judge Struck Down FTC’s Ban on Noncompetes. What Does This Mean for Healthcare?,” [MedCity](#)

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