

---

## Civil Rights & Judiciary Committee

---

### HB 1507

**Brief Description:** Limiting health care nondisclosure agreements.

**Sponsors:** Representatives Scott, Berry, Peterson, Reed, Simmons, Ormsby, Farivar, Parshley, Fosse, Macri, Ramel, Pollet and Ortiz-Self.

#### Brief Summary of Bill

- Prohibits certain nondisclosure and nondisparagement agreements that limit the disclosure of acts, errors, or omissions by a health care provider that a patient reasonably believes to constitute medical malpractice, or a tort or crime.
- Applies restrictions retroactively to invalidate prohibited provisions in agreements entered into before the bill's effective date.
- Provides a civil cause of action against health care providers for violations.

**Hearing Date:** 2/4/25

**Staff:** John Burzynski (786-7133).

#### Background:

Nondisclosure agreements are legally binding agreements between two or more parties that restrict the sharing of specific information with others. Similarly, nondisparagement agreements are legally binding agreements between parties that limit what one or all parties can publicly state about each other.

A settlement agreement is a legally binding agreement between two or more parties that resolves some or all legal claims the parties may have against each other, typically in exchange for

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

payment of a negotiated sum. Settlement agreements may contain nondisclosure and nondisparagement provisions depending on the nature of the parties' dispute, needs, and goals.

Washington restricts the enforceability of nondisclosure and nondisparagement agreements in certain contexts. A provision in an agreement by an employer and an employee not to disclose or discuss conduct, or a related settlement, that the employee reasonably believed to be illegal discrimination, illegal harassment, illegal retaliation, a wage and hour violation, or sexual assault, or that is recognized as against a clear mandate of public policy, is void and unenforceable. Additionally, employers may not require nondisclosure by an employee of his or her wages as a condition of employment.

### **Summary of Bill:**

#### Prohibited Nondisclosure Provisions.

Provisions in agreements between health care providers and patients that restrict the disclosure of any act, error, or omission by the provider (or the existence of a settlement agreement regarding the same), which the patient reasonably believes to constitute medical malpractice, or a tort or crime, are void and unenforceable.

Provisions subject to this restriction include, but are not limited to: (1) provisions concerning any act, error, or omission by a health care provider occurring in the course of any health care, whether occurring on or off a premises owned or controlled by the health care provider; and (2) provisions contained in any agreement related to the provision of any health care, settlement agreement, and any other agreement between a health care provider and patient.

This restriction does not limit provisions that prohibit disclosure of: (1) an amount paid in settlement of a legal claim; or (2) confidential information that does not involve or is not relevant to any allegation of medical malpractice, or any tort or crime.

#### Enforcement.

A health care provider violates this restriction by: (1) requesting or requiring a patient to enter into an agreement containing a prohibited provision; (2) entering into an agreement containing a prohibited provision; or (3) attempting to enforce a prohibited provision by lawsuit, a threat to enforce, or other attempt to influence a party to comply with a prohibited provision.

A health care provider who violates this restriction is liable for actual damages or statutory damages of \$10,000, whichever is more, and reasonable attorneys' fees and costs.

#### Retroactive Application.

The bill's restrictions are retroactive, but only to invalidate prohibited provisions in existing agreements created before the bill's effective date and to prevent the enforcement of such provisions. The mere existence of a prohibited provision that predates the bill's effective date is not actionable.

Within one year of the bill's effective date, health care providers that have previously entered into agreements with patients containing prohibited provisions must provide written notice to such patients, the patients' legal counsel, and any other persons bound by such agreements, of the existence of the act and identify all agreement provisions that are no longer enforceable.

Miscellaneous Provisions.

A nondisclosure or nondisparagement provision in any agreement between a patient who is a Washington resident and their health care provider is governed by Washington law.

These restrictions must be liberally construed to fulfill their remedial purpose.

**Appropriation:** None.

**Fiscal Note:** Requested on January 24, 2025.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.