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Fitch: FTC Ban on Non-Competes Complicates NFP Hospital Staffing Issues

Fitch Ratings-Austin/New York/Chicago-02 May 2024: The recently announced Federal Trade Commission (FTC) rule banning non-compete clauses could add staffing complications to not-fo--profit (NFP) hospitals that are still adapting to the upward reset of wages and have only recently begun to rein in labor costs, Fitch Ratings says.

The rule prohibits non-compete provisions in employment contracts, with the exception of existing agreements with senior executives. The rule, which would go into effect 120 days following publication in the Federal Register on April 30, 2024, has already been challenged in court and implementation is likely to be delayed as the rule is litigated.

The FTC indicates in the rule that non-profit organizations are “not categorically beyond” the FTC’s jurisdiction and that it looks to whether an entity or its members derive a profit. The rule notes that employees of a physician group that work at an NFP hospital would fall under the FTC’s jurisdiction and are therefore subject to the rule.

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