

AMENDMENT TO
RULES COMMITTEE PRINT 117-33
OFFERED BY MRS. HARTZLER OF MISSOURI

Add at the end of title VII the following new sections:

1 **SEC. 7___ . NON-APPLICABILITY OF NON-DEPARTMENT OF**
2 **VETERANS AFFAIRS COVENANTS NOT TO**
3 **COMPETE TO APPOINTMENT OF VETERANS**
4 **HEALTH ADMINISTRATION PERSONNEL.**

5 (a) IN GENERAL.—Subchapter I of chapter 74 of title
6 38, United States Code, is amended by adding at the end
7 the following new section:

8 **“§ 7414. Effect of non-Department covenants not to**
9 **compete**

10 “(a) NON-APPLICABILITY.—Except as provided in
11 subsection (b), in the case of an individual who is an appli-
12 cant for appointment to a position in the Veterans Health
13 Administration described in section 7401 of this title, any
14 covenant not to compete into which the individual has en-
15 tered with a non-Department facility or party shall have
16 no force or effect with respect to the appointment of the
17 individual to such a position.

1 “(b) SERVICE OBLIGATION.—(1) Any individual who
2 is appointed to such a position in the Veterans Health Ad-
3 ministration shall, as a condition of such appointment,
4 agree to provide clinical services at a Department medical
5 facility for the duration of the period described in para-
6 graph (2).

7 “(2) The period described in this paragraph is the
8 period that begins on the date on which an individual is
9 appointed to such a position and ends on the latter of the
10 following dates:

11 “(A) The date that is one year after such date
12 of appointment.

13 “(B) The date of the termination of any cov-
14 enant not to compete entered into between the indi-
15 vidual and a non-Department facility or party.

16 “(3) The Secretary may waive the requirement under
17 paragraph (1) with respect to an individual at the discre-
18 tion of the Secretary.

19 “(c) TERMINATION OF DEPARTMENT EMPLOY-
20 MENT.—In the case of an individual who is appointed to
21 such a position in the Veterans Health Administration
22 who has entered into a covenant not to compete that is
23 rendered non-applicable pursuant to subsection (a), if the
24 individual’s employment at the Veterans Health Adminis-
25 tration is terminated for any reason before the specified

1 termination date of such covenant, subsection (a) shall not
2 apply with respect to such covenant after the date of the
3 termination of the individual's employment at the Vet-
4 erans Health Administration.

5 “(d) COVENANT NOT TO COMPETE.—In this section,
6 the term ‘covenant not to compete’ means an agreement—

7 “(1) between an employee and employer or a
8 contractor and principal that restricts such employee
9 or contractor from performing—

10 “(A) any work for another employer for a
11 specified period of time;

12 “(B) any work in a specified geographical
13 area; or

14 “(C) work for another employer per-
15 forming work that is similar to the work such
16 employee or contractor performed for the em-
17 ployer or principal, included as a party to the
18 agreement; and

19 “(2) that is entered into after the date of enact-
20 ment of this Act.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such chapter is amended by inserting
23 after the item relating to section 7413 the following new
24 item:

“7414. Effect of non-Department covenants not to compete.”.

1 by not later than two years after the date on which the
2 individual is so appointed.

3 “(2) An individual who is appointed to a position on
4 a contingent basis under paragraph (1) shall be appointed
5 to such position on a permanent basis if, by not later than
6 two years after the date of the contingent appointment,
7 the individual completes all the requirements for appoint-
8 ment under subsection (b)(1).

9 “(3) An individual who is appointed on a contingent
10 basis under paragraph (1) who fails to complete the re-
11 quirements for appointment under subsection (b)(1) by
12 not later than two years after the date on which the indi-
13 vidual is so appointed may not be appointed to such posi-
14 tion on a permanent basis.”

