

115TH CONGRESS  
1ST SESSION

# H. R. 4037

To amend title 38, United States Code, to provide for the non-applicability of non-Department of Veterans Affairs covenants not to compete to the appointment of certain Veterans Health Administration personnel.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2017

Mrs. HARTZLER introduced the following bill; which was referred to the  
Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to provide for the non-applicability of non-Department of Veterans Affairs covenants not to compete to the appointment of certain Veterans Health Administration personnel.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “VA Fairness in Hiring  
5 Act”.

1 **SEC. 2. NON-APPLICABILITY OF NON-DEPARTMENT OF VET-**  
2 **ERANS AFFAIRS COVENANTS NOT TO COM-**  
3 **PETE 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 **“§ 7413. 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 employer shall  
16 have no force or effect with respect to the appointment  
17 of the individual to such a position.

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

1 ning on the date of the termination of the individual's em-  
2 ployment at the Veterans Health Administration and end-  
3 ing on the last day of such specified period of time.

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

6 “(1) between an employee and employer that  
7 restricts such employee from performing—

8 “(A) any work for another employer for a  
9 specified period of time;

10 “(B) any work in a specified geographical  
11 area; or

12 “(C) work for another employer that is  
13 similar to such employee’s work for the em-  
14 ployer included as a party to the agreement;  
15 and

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

18 (b) CLERICAL AMENDMENT.—The table of sections  
19 at the beginning of such chapter is amended by inserting  
20 after the item relating to section 7412 the following new  
21 item:

“7413. Effect of non-Department covenants not to compete.”.

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