

Spotlight on State: Alabama

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Alabama is one of the few states that prohibits most non-compete provisions in employment contracts for professionals, which include physicians. Specifically, the courts held that statutory exemptions allowing non-competes in employment contracts do not apply to professionals and that physicians and other medical providers are professionals under state law.

While the state does not have statutory authority for review or approval of provider mergers, Alabama is the site of a major private antitrust enforcement action against health insurer Blue Shield/Blue Cross. Healthcare providers and individual and small-employer customers separately sued BCBS of Alabama in 2013, alleging horizontal market allocation and conspiracy to divvy up insurance markets all over the country in violation of Section 1 of the Sherman Antitrust Act. The lawsuits were consolidated as MDL in the Northern District of Alabama, which held that the alleged practice of creating exclusive territories is a “per se” violation of the Sherman Antitrust Act and would be subject to the highest legal standard. After the 11th Circuit upheld the decision, BCBS agreed to a settlement agreement with employer subscribers that would pay \$2.7 billion to the class plaintiffs, in addition to modification of alleged anticompetitive practices.