

A.B. 747 ENDING EMPLOYER-DRIVEN DEBT AND INDENTURED CARE

Assemblymember Kevin McCarty

BACKGROUND

As California's worker protection laws have banned the use of exploitative employment contracts, hospitals, and other employers, have increasingly resorted to the use of coercive job-based financial agreements — or employer-driven debt — to trap workers in unsafe and unfair working conditions.

Employers force nurses and other workers to repay work-related expenses by requiring the worker to work minimum periods of time as a form of repayment towards the alleged debt. If the worker quits or is terminated for any reason before the end of the labor contract period, they are required to repay the costs of the alleged debt or pay a high financial penalty. In other words, the kind of employer-driven debt that many nurses and other workers face today is a modern-day form of indentured servitude.

These kinds of employer-driven debt contracts include training repayment agreement provisions (TRAPs) that create financial obligations of nurses to their employers for alleged costs of employer-mandated training. In 2020, California passed a bill — sponsored by the California Nurses Association — which barred health care employers from forcing nurses and other direct-care workers into TRAPs. However, some hospitals are still coercing recently graduated nurses into debt TRAPs.

Employers also force nurses and other workers into work through other kinds of employer-driven debt. Employers tie tuition assistance contracts, international recruitment contracts, and hiring bonuses to work requirements where a worker can only “repay” their employer for the debt through years of work or by leaving employment and paying.

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PROBLEM

Employer-driven debt is often mandated as a condition of employment for nurses and other workers required to enter a profession. Even though California has banned noncompete and other anticompetitive provisions, stronger regulation of employer-driven debt contracts is needed.

As market consolidation in the health care industry and other job markets grows, hospitals and other employers leverage their monopsony power to coerce workers into debt through “take it or leave it” contracts, or contracts of adherence. In other words, workers must be indebted to their employer in order to get or keep a job.

Employers use the threat of financial ruin to keep workers out of unions, silence whistleblowers, and lock them into low-wage positions. For nurses, employer debt traps prevent them from acting collectively to improve hospital working conditions for themselves, their coworkers, and their patients. Importantly, when employers hold workers hostage as debtors, it makes it difficult for nurses to speak out about unsafe working conditions and to advocate for their patients to ensure they receive safe and effective nursing care. Ultimately, patients and other consumers suffer as a result of employer-driven debt.

SOLUTION

A.B. 747 would bar, as a kind of unlawful contract in restraint of trade, any employer-mandated debt contracts that includes minimum work requirements. This bill would also ensure that workers, the Attorney General, and the Labor Commissioner could take legal action to stop employers from using contracts that lock workers into a job through coercive debt contracts, including employer-mandated debt traps and noncompete provisions. A.B. 747 would also void and make unlawful employer debt TRAPs and other employer-driven debt contracts under the Labor Code.

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