Non-compete clause for Dr. Williams

Stephanie Keller

2/7/2019

**Post-Termination Competition and Employment.**

Dr. Williams acknowledges that Newton Family Homeopathy (the “Practice”) will expose Dr. Williams to all of the Practice’s business and professional relationships, as well as provide access to its hospital contacts, training, and on-the-job experience. Dr. Williams also acknowledges that practicing medicine in the geographic area served by the Practice following termination of the Agreement for any reason would harm the Practice’s legitimate business interest.

Dr. Williams therefore agrees that during the term of the Agreement and fo a period of three (3) years immediately following its expiration or earlier termination, Dr. Williams shall not, directly or indirectly, within the city limits of Newton:

1. Engage in the practice of medicine or
2. Become employed by, or serve as an office, director, shareholder, partner, health care consultant or medical director of, any physician’s office, health care provider or managed care organization that provides patient care.

This non-compete clause for Dr. Williams is extremely broad in its scope all three elements of the agreement need to evaluated. For the non-compete clause to be enforceable the “restrictions imposed must be reasonably necessary for the protection of the employer (TSG). This leads to the balancing test provided by TSG, the employers protectable business interests again the interest of the employee in earning a living in his or her chosen profession.

Duration: the duration currently listed is three years. This is an excessive amount of time to keep the physician out of the community, even if he were considering opening a pediatrics clinic in the same geographic region. I would suggest limiting the time to one year, this would give the employer time to retain any patients that wish to continue seeing physicians at their clinic but also allow Williams the availability to continue earning income in the near future.

Geography: Currently Williams is not allowed to practice medicine in the city of Newton. This is not a reasonable restriction to place on Williams. Williams has established a life and has a family that reside in the city of Newton. For him to be required to uproot his family to continue to practice medicine is an unreasonable request on the part of the employer.

Type of work: The current agreement provides that Williams will not participate in the medical community in any capacity for the next three years. This provision is not acceptable in any form. There are multiple reasons for this clause to be replaced. The most apparent reason is, in Edwards the court evaluates and uphold the decision that non-compete agreements would be illegal when restraints preclude one from engaging in a lawful profession, trade, or business. This agreement precludes Williams from participating in the entire medical field and therefore is illegal.