Kelli Rawlinson

**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 this Agreement for any reason would harm the Practice’s legitimate business interests.

Dr. Williams therefore agrees that during the term of this Agreement and for a period of two (2) years immediately following its expiration or earlier termination, Dr. Williams shall not, directly or indirectly, within the limits of Newtown:

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

**Non-Compete Worksheet**

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|  | **Prohibited Conduct** | **Geographic Range** | **Temporal Duration** |
| *Restrictions Proposed by Employer* | Become employed by, or serve as (basically anything) in the practice of medicine. Including physician and partner. | Within city limits of Newtown | 3 years |
| *Employer’s Legitimate Interests* | Homeopathy uses alternative & natural medicine. Dr. Williams will acquire specialized knowledge & skills that are unique that Newtown Family Homeopathy wants to protect in small community. | Newton is a smaller community. Dr. Williams came from a large urban area for many years, he can return. Also, he was searching for 10 positions in smaller communities. | Reasonable duration term (2-3 years) |
| *Legal Limitations & Employee Concerns* | Dr. Williams cannot work as a physician or in the practice of medicine in any capacity. Although Dr. Williams focus was previously on pediatrics, after working with Newtown, it will forbid him to work with children or adults. | Dr. Williams and family desire a quieter community, and searched for positions looking for such. Reason they want to move to Newtown. | More ideal to be 2 years instead of three because 2 years is the term of his employment renewal |
| *Client’s Proposed Revision* | Dr. Williams should only be limited in capacity to work as a homeopathic doctor, not in the general overall practice of medicine. | Restriction to Newtown is reasonable, can keep that as is because the work of Newtown Family Homeopathy is new field in this community. | Make durational term 2 years, to match that of his renewal period. |

**Non-Compete Worksheet Analysis**

Purpose of Non-Compete: Employer’s Legitimate Interest and Employee Unique Skills

The purpose of non-compete agreements are to avoid unfair competitions, protecting investments or proprietary/secret information. Covenants not to compete are only enforced if an employer is seeking to protect a legitimate interest. In order to have a protectible legitimate interest, the employer must establish that the employee has knowledge of a trade secret, has information which pertains particularly to an employer, or has other specialized knowledge sufficient to just enforcement of the covenant. A legitimate business exists where the customer relationships are “near” permanent” and the former employee would not have had contact with those customers but for his previous employment. A legitimate business interest also may exist where the employee obtained trade secrets or other confidential information through his previous employment.

Newtown Family Homeopathy is only exposing 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. They also assert they have a legitimate business interests, which gives rise to the durational limitations in the covenant. The Practice can assert that they use alternative and natural medicines that are different from that of general medical practice. Thus, they would assert that Dr. Williams will gain specialized knowledge and skills that are unique to the field and practice of homeopathic medicine, and that needs to be protected.

Scope of Covenant: Duration of Covenant, Geographic Scope, and Type of Work

Courts consider how long after employment has ended the non-compete covenant would prohibit the employee from working for other employers. As a general rule, two to three year post employment covenants are considered reasonable, longer covenants are found to be unreasonable. Here, Newtown has included a three year durational restriction for Dr. Williams. However, it is more ideal for Dr. Williams to have a two year durational term. It is understood that in this small community, with a new field of medicine, why there may be a need to restrict Dr. Williams taking knowledge from the Practice to use somewhere else in Newtown. However, it will be more ideal for Dr. Williams’ restrictions to not be greater than the two year renewal of employment that he is subject to, even though 3 year durational limits are considered reasonable.

Non-compete covenants must be reasonable in the geographical area it covers. Generally, geographic limits cannot limit entire field of work for employee. If there is a geographic covenant, it should be fairly short in duration. Newtown Family Homeopathy acknowledges that the practicing in the geographic area served by the Practice would harm the Practice’s legitimate business interests. Newtown is small, quiet community and this field of medicine may be new and the Practice could reasonably be harmed by Dr. Williams, or any other physician leaving the Practice and taking their knowledge and skills to another practice within the same city limits. For this, reason, we leave this the same in the agreement.

Non-compete covenants depend on the type of work that the employee will engage in. There must be a showing that the employee’s skills or knowledge is special, unique or extraordinary. General knowledge or skills acquired through training or experience at a given employer remains the employee’s to exploit. The Practice can assert that they use alternative and natural medicines that are different from that of general medical practice. Thus, they would assert that Dr. Williams will gain specialized knowledge and skills that are unique to the field and practice of homeopathic medicine, and that needs to be protected. For this reason, it is in the employee’s best interest to limit the type of work to homeopathic medicine only.