

Texas Business and Commerce Code - BUS & COM § 15.50. Criteria for Enforceability of Covenants Not to Compete

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(a) Notwithstanding Section 15.05 (<https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1000168&refType=LQ§=15-10.html>) of this code, and subject to any applicable provision of Subsection (b), a covenant not to compete is enforceable if it is ancillary to or part of an otherwise enforceable agreement at the time the agreement is made to the extent that it contains limitations as to time, geographical area, and scope of activity to be restrained that are reasonable and do not impose a greater restraint than is necessary to protect the goodwill or other business interest of the promisee.

(b) A covenant not to compete relating to the practice of medicine is enforceable against a person licensed as a physician by the Texas Medical Board if such covenant complies with the following requirements:

- (1) the covenant must:
 - (A) not deny the physician access to a list of his patients whom he had seen or treated within one year of termination of the contract or employment;
 - (B) provide access to medical records of the physician's patients upon authorization of the patient and any copies of medical records for a reasonable fee as established by the Texas Medical Board under Section 159.008, Occupations Code (<https://1.next.westlaw.com/Link/Document/FullText?findType=L&originatingContext=document&transitionType=DocumentItem&pubNum=1016178&refType=LQ§=159-008.html>); and
 - (C) provide that any access to a list of patients or to patients' medical records after termination of the contract or employment shall not require such list or records to be provided in a format different than that by which such records are maintained except by mutual consent of the parties to the contract;
- (2) the covenant must provide for a buy out of the covenant by the physician at a reasonable price or, at the option of either party, as determined by a mutually agreed upon arbitrator or, in the case of an inability to agree, an arbitrator of the court whose decision shall be binding on the parties; and
- (3) the covenant must provide that the physician will not be prohibited from providing continuing care and treatment to a specific patient or patients during the course of an acute illness even after the contract or employment has been terminated.

(c) Subsection (b) does not apply to a physician's business ownership interest in a licensed hospital or licensed ambulatory surgical center.

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