

## **NONCOMPETE AND NON-SOLICITATION CLAUSES**

### **What is a noncompete or noncompetition clause?**

A noncompetition clause is a provision, typically found in an employment contract or a contract for sale of a practice, in which an employee or seller of a practice agrees not to compete with the employer or purchaser of a practice within a certain geographic area for a certain period of time following termination of the employment relationship or purchase of the practice.

### **Are noncompete clauses enforceable against physicians?**

Generally, yes.<sup>1</sup> Noncompete clauses are generally enforceable, as long as the duration, geographic area, and scope covered by the noncompete restriction are reasonable.<sup>2</sup>

A physician should carefully review any contract containing a noncompete clause before signing to ensure that the duration, and geographic area, and scope of the noncompete area restriction are acceptable.

### **What is a non-solicitation clause?**

A non-solicitation clause is a provision, typically found in an employment contract, or contract for sale of a practice, in which an employee or seller of a practice agrees not to solicit business from patients or referral sources of the employer or purchaser of the practice following termination of the employment relationship or purchase of the practice.

### **Are non-solicitation clauses enforceable?**

Generally, yes. Non-solicitation clauses are a type of covenant not to compete, and are therefore generally enforceable as long as they are reasonable.<sup>3</sup>

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<sup>1</sup> *Racine v. Bender*, 141 Wash. 606, 611 (1927)

<sup>2</sup> *Wood v. May*, 73 Wn. 2d 307, 309 (quoting *Racine v. Bender*, 141 Wash. 606, 611); *see also: Sheppard v. Blackstock Lumber Co.*, 85 Wn. 2d 929, 933. (quoting Blake, *Employment Agreement not to Compete*, 73 Harv. L. Rev. 625 (1960)).

<sup>3</sup> *Vernon v. Lopez*, 2000 Wash. App. LEXIS 351, \*19; *see also: Perry v. Moran*, 109 Wn. 2d 691, 697 (quoting *Racine*, 141 Wash., at 607).