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Are Physicians Subject to Non-Compete Agreements?

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Generally, a non-compete agreement provides restrictions on competing against an employer for a specific duration and geographical area. In order to be an enforceable, the courts generally find that the restrictions must be narrowly drafted to reasonably protect the legitimate business concerns of the employer. Various factors are considered in determining whether the employer has a legitimate business concern in restricting employment. These factors include a detailed analysis of the employer's business and its relationship with its clientele, where the company and the employee performed work, the employee's skills and knowledge of the company's business and the type of position held by the employee. Courts analyze each restrictive covenant and employment relationship independently to determine whether the restrictive covenant is enforceable.

Recently, the Illinois Supreme Court considered whether a covenant not to compete was enforceable against a physician. In finding that a non-compete agreement was enforceable the court examined the physicians employment contracts which contained restrictive covenants which stated that upon termination of employment, the doctors would not practice medicine within a geographic area of three miles for up to five years. The doctors argued that the covenants should be declared void as against public policy however, the doctors failed to show that such covenants were contrary to the law or injurious to the public welfare. The court held that such covenants protected the business interests of established physicians and, in this way, encouraged them to take on younger, inexperienced doctors which could have a positive impact on patient care. The court also stated that historically, covenants restricting the performance of medical professional services have been held valid and enforceable in Illinois as long as the duration and geographic scope are reasonable when considering the effect on the public and any undue hardship on the parties to the agreement. As such, the court held that based the time and effort it took to develop the medical practice, the geographic restriction of three miles and time restrictions of three and five years were reasonable. Accordingly, careful consideration should be given before signing any employment agreement and especially one that contains a non-compete provision since the agreement can potentially restrict future employment and require the payment of monetary damages. For additional employment information, please visit our web site at www.joettedoran.com.

**This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.*

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