



2015 Legislative Session

Non-Compete Clauses in Employment Contracts

The AMA Code of Medical Ethics, which govern medical practices in New Mexico, sets forth in *Opinion 9.02 - Restrictive Covenants and the Practice of Medicine* -- Covenants-not-to-compete restrict competition, disrupt continuity of care, and potentially deprive the public of medical services. The Council on Ethical and Judicial Affairs discourages any agreement which restricts the right of a physician to practice medicine for a specified period of time or in a specified area upon termination of an employment, partnership, or corporate agreement. Restrictive covenants are unethical if they are excessive in geographic scope or duration in the circumstances presented, or if they fail to make reasonable accommodation of patients' choice of physician

The New Mexico Medical Society supports the legislation which provides for an interval of three years from the date of employment and specific provisions for repayment to the employer recruitment expenses for an employee who may terminate before the three year provision. The act does not apply to a health care practitioner who is a shareholder, owner, partner, or director of a health care practice. An agreement may provide for liquidated damages in an amount that is reasonable; a provision in an agreement fixing unreasonably large liquidated damages would be void.

NMMS believes this legislation is a fair compromise for allowing non-compete clauses that are not overly restrictive for a new physician to practice medicine, protects the patient physician relationship, and at the same time buffers the employer for cost incurred in hiring a new employee.

For more information please contact:

Randy Marshall, NMMS Executive Director at (505) 263-4912 or rmarshall@nmms.org