



Navigating your noncompete

Popular TV shows can help you understand how to make sure your employment contract is solid.

ONE OF THE MOST IMPORTANT (AND MOST OVERLOOKED) ELEMENTS OF THE PHYSICIAN'S EMPLOYMENT ARRANGEMENT



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IS THE NONCOMPETE CLAUSE. A noncompete clause essentially prohibits you from working within a certain radius—blocks, miles, zip codes or counties—for a defined period of time, usually months or years.

Told with the help of TV shows, this overview will help you understand the importance of addressing noncompetition clauses at all stages of your career.

Survivor

Your career should not only *survive* as you switch from one job to the next, but thrive. Each employment contract sets you up for—or hinders you from—going from one job to the next. It is very important to be always looking ahead and thinking about your next career opportunity and how best to accomplish your professional goals.

You don't have to outwit, outlast or outplay a colleague or an employer to be successful. Being a physician is a team endeavor. At the end of the day, however, each physician needs to look out for his or her own individual short-term and long-term goals to be the sole survivor and help ensure appropriate career opportunities can be achieved.

The Apprentice

This long-running TV show addressed many of the same elements more junior physicians may encounter early in their careers or in any new job setting: practicing independently for the first time, working with new colleagues, asserting yourself, confronting difficult patient encounters in the board room ... err, M&M conference. And no physician (or any professional) ever wants to hear the dreaded words, "You're fired."

If you're only one or two years into the job with an employer, how damaging will it be for you to become a "competitor" of the soon-to-be former employer and stay in that particular community? You may be well-served by including exceptions to your noncompete clause depending on how long you work for an employer before termination and the reason for the employment separation.

Some physicians are very entrepreneurial. They want to do multiple activities in addition to their full-time employment duties. They have (*America's Got Talent*) and want to showcase their professional skills to different audiences in different venues.

Carving out exceptions in your employment agreement to allow you to share these talents—and keep any compensation earned and protection of any intellectual property created—are important considerations that need to be properly and clearly addressed.

The Bachelor and The Bachelorette

Switching from one job to another is never easy, even when it is by your own choice. Depending upon supply and demand, you may have many attractive suitors for your next job.

It is critical to understand as much as you can about your prospective employer before tying the proverbial knot. Before accepting the “rose” from an organization, dig into its leadership strengths, short and long-term institutional goals, challenges confronting the community, and the scope of the noncompete, nonsolicit and noninterference clauses.

Use *The Voice* you’ve been given to express the most important priorities and deal breakers in an employment agreement before signing. An employer can’t read your mind—so advocate for yourself or hire someone to do so on your behalf to make sure the judge...err, employer, knows why an issue is a priority for you.

American Ninja Warrior

Throughout the course of your career, you may feel like an *American Ninja Warrior* moving from one challenging impediment to another in pursuit of a better job opportunity.

The obstacles of a very restrictive noncompete clause can mean you have to move entirely out of the community or potentially face expensive and time-consuming litigation. Before making a jump, understand whether your current employer will see that opportunity as a threat and if there are mutually satisfactory outcomes possible, such as staying in the employment for a certain amount of time to

ensure a smooth transition for a replacement hire.

Top Chef

Most every physician wants to succeed in their job and potentially become the *Top Chef*. There is, of course, no guarantee this will occur. A carefully crafted noncompete may void the noncompete if the physician is getting a promotion in the “new” job, even if that job is within the noncompete radius. This exclusion should be negotiated in advance before a disagreement can occur with respect to what qualifies as a promotion.

The goal for each physician, and each employment agreement a physician signs, is to have *Happy Days* for everyone involved without the need for lawyers in *Suits* arguing before someone like *Judge Judy*.

Competition can be healthy. Properly crafting and addressing noncompete issues with specific language in your employment agreement can and should protect you and your employer so that, in the ideal world, everyone can be *Friends*. •

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