



Case Studies: Restrictive Covenant Enforcement Scenarios

Each of the following case studies features a hypothetical scenario, designed to help students practice analyzing whether, when, and what types of restrictive covenants may be enforceable or unenforceable (or fall within a grey area) in the context of smaller healthcare practices. These case studies do not reflect any specific state statutes or judicial rulings; instead, they are framed under the assumption that the jurisdiction generally permits restrictive covenants if they are reasonable in scope and duration and narrowly tied to legitimate business interests. *If your practice is located in a state where certain types of covenants are prohibited outright or permitted only under limited circumstances (e.g., salary thresholds, one-year maximums), those laws will control and supersede these general principles of analysis.*

For each case study scenario, write a sentence or two explaining your reasoning, then review the answer key and explanation to see if your approach aligns with the principles that courts or regulators are likely (though not guaranteed!) to apply under similar circumstances.

Scenario 1. Dr. Patel Starts a New Clinic in Cloverfield

Dr. Patel resigns on good terms from Lantern Hill Internal Medicine after her spouse gets a new job fifty miles away, and she decides to open a solo family practice in her family's new hometown of Cloverfield. Dr. Patel's employment contract with Lantern Hill Internal Medicine contains a noncompetition agreement prohibiting competing activities within a 25-mile radius of the practice, but no other restrictive covenants. Some of Dr. Patel's former colleagues are upset because many patients are choosing to drive to Dr. Patel's new location in Cloverfield rather than transitioning to other providers at Lantern Hill, and Dr. Patel has done nothing to discourage them. Is Dr. Patel in violation of her employment agreement?

Answer: _____

Scenario 2. Nurse Jackson Joins a Trendy Med Spa

Registered Nurse Jackson worked at Brookstone Dermatology for five years, primarily under Dr. Williams, who specializes in cryosurgery and other minimally invasive skin cancer surgical techniques. She resigns following an intractable salary dispute and quickly accepts a position at FontViva Med Spa, located two miles away, where she'll be performing Botox injections and laser treatments. FontViva's medical director is a licensed cosmetic surgeon, but all other staff are NPs, RNs, and PAs. Nurse Jackson's employment contract with Brookstone bars her from working at "any competitive medical practice located within 10 miles of Brookstone's office." Should Brookstone pursue Nurse Jackson for breach of her restrictive covenant?

Answer: _____

Scenario 3. Dr. Lopez Considers a Local Job Offer

Dr. Lopez is a highly qualified orthopedic surgeon. He begins working for Sunvale Sports Medicine in February, but despite consistently positive peer feedback and patient satisfaction, he is terminated without cause less than six months later, in July of the same year. His employment agreement states that he is restricted from practicing orthopedics or sports medicine within 15 miles of Sunvale Sports Medicine and from soliciting clinic patients for 18 months following termination. Dr. Lopez is swiftly recruited by a sports medicine clinic in the neighboring



city of Maple Hollow, 11 miles away from the Sunvale office. But having relocated from out of state to accept the Sunvale role, his contacts are limited and his only other job prospect is 200 miles away, which would require another move. What will happen if Dr. Lopez accepts the job with Maple Hollow?

Answer: _____

Scenario 4. Dr. Nguyen Celebrates on Social Media

Dr. Nguyen abruptly leaves Silverpine Ophthalmology after three years with the clinic in order to open her own practice just four blocks away in the city's commercial district. Dr. Nguyen's employment contract does not have a noncompetition clause, but it does state, "The Physician agrees not to solicit or contact any patient of Silverpine Ophthalmology, directly or indirectly, for the purpose of diverting business from Silverpine Ophthalmology or offering ophthalmologic services to such patients within the Restricted Area during the Restricted Period." Believing this only bars her from calling or emailing past patients directly, Dr. Nguyen instead posts photos of her new location on Instagram with the caption: "I'm excited to announce I've opened my own clinic! I'm accepting new patients, and existing patients are welcome to follow me to my new office. I'm offering a 15% discount off any eyewear or contact lenses to all preexisting patients who visit me at my new location during the next six months." Can Silverpine Ophthalmology make Dr. Nguyen take down this post?

Answer: _____

Scenario 5. PA O'Connor Recruits an Office Manager

Physician Assistant O'Connor leaves Bluebell Radiology after eight years to join Silhouette Aesthetic Center, a new high-end cosmetic surgery practice that's just establishing itself. Knowing that Silhouette Aesthetic Center is actively recruiting for several positions, pays above-market salary, and the doctors support a positive and collaborative work environment, she tells her friend and former colleague Marcus, Bluebell Radiology's office manager, about how wonderful the job is and facilitates an informational interview between Marcus and the lead physician at Silhouette. PA O'Connor's employment contract did contain a covenant prohibiting recruitment or solicitation of any Bluebell Radiology employees or independent contractors for 18 months post-termination, but she thinks she's okay because Silhouette is a totally different specialty, she isn't making the hiring decision herself, and Marcus isn't subject to any restrictive covenants at all. Is she in violation of her contract?

Answer: _____

Scenario 6. Dr. Singh Grows His Professional Network

Dr. Singh works as a neurologist at Road to Recovery Neuro & Spine, a clinic with multiple locations across the state that focuses on orthopedic and neurological treatment for auto accident victims. After six years at Road to Recovery, with its strong focus on business development, networking, and generating potential referral sources, Dr. Singh has substantially grown his professional network. Through the clinic, he's developed relationships with (and regularly receives referrals through) primary care physicians, accident attorneys, auto body shops, chiropractors, and others. Now Dr. Singh is contemplating accepting a new job with Briar Glen Neurology, and part of his compensation will be based on the business he brings in. His employment agreement prohibits him, for one year after termination, from contacting any referral source to whom he was introduced through Road to



Recovery for the purpose of soliciting patient referrals on behalf of his new employer. Does Dr. Singh need to cut ties with entire professional network?

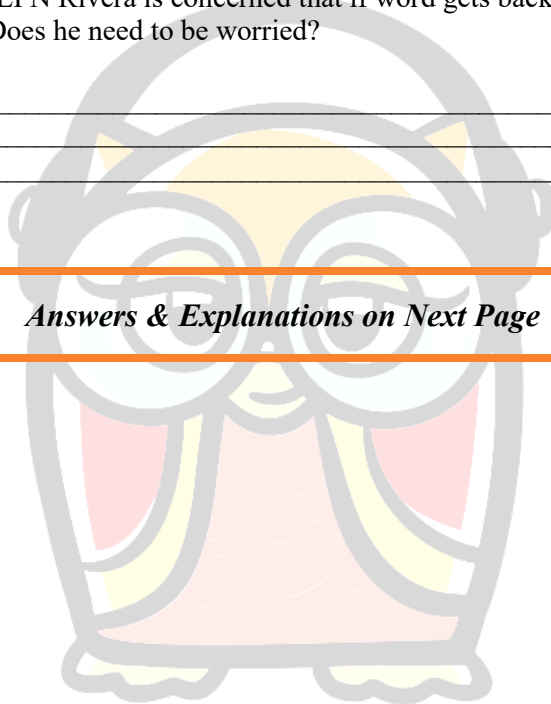
Answer: _____

Scenario 7. LPN Rivera Treats Overlapping Patients by Chance

Licensed Practical Nurse Rivera worked for Dr. Davies' solo practice in family medicine for four years before deciding to move on to an urgent care center in the hopes of experiencing a more dynamic day-to-day work environment. LPN Rivera's employment contract with Dr. Davies is a simple two-page document, but it does contain a nonsolicitation clause prohibiting LPN Rivera from actively soliciting Dr. Davies' patients or family members. LPN Rivera was a well-liked member of staff, however, and although he has not had any contact with any of them since resigning from Dr. Davies' office, several former patients have walked into the urgent care clinic and requested to see him. LPN Rivera is concerned that if word gets back to Dr. Davies, Dr. Davies may sue him for breach of contract. Does he need to be worried?

Answer: _____

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Case Studies – Answers & Analysis

Scenario 1: Dr. Patel is not in violation. Dr. Patel's new clinic is outside the 25-mile restricted area. The employment agreement does not contain a nonsolicitation agreement; and even if it did, Dr. Patel is not aggressively trying to poach Lantern Hill's patient list, but rather she's simply not turning former patients away. It is extraordinarily improbable that a court would agree to extend the geographic limit as written to restrain Dr. Patel's right to work and interfere with patients' rights to continuity of care and choice of medical provider.

Scenario 2: Brookstone and Nurse Jackson are in a grey area. Although there is some overlap between med spas and dermatology, and Nurse Jackson and her colleagues will be performing some procedures under the supervision of an M.D., it's challenging to argue that FontViva is truly a "competitive medical practice" in light of Brookstone's primary focus on oncologic dermatology versus the aesthetic procedures that FontViva offers. If Brookstone wishes to challenge Nurse Jackson's new employment, they'll probably be able to find a lawyer who will take their case; but unless they can demonstrate that cosmetic dermatology comprises a meaningful portion of their revenue or patient services, it'll be difficult to argue that restricting Nurse Jackson's employment protects Brookstone's legitimate business interests. Before Brookstone pursues Nurse Jackson, they should carefully evaluate whether the time, expense, stress, and bad PR will be worth it when the likelihood of success is so unclear.

Scenario 3: Enforceability is questionable, particularly for the noncompetition clause, and the outcome will depend on the state in which the practices are located. Generally, many state courts are more reluctant to enforce noncompetition covenants against employees who are involuntarily terminated without cause. Even when enforcement is not automatically denied, some courts will consider the totality of circumstances to decide whether the clause is unfair or overbroad and should be narrowed. The fact that Dr. Lopez's new job is at the outer edge of the restricted area and is the only job offer he has within a reasonable distance of his home, together with his reliance on the Sunvale role in his decision to move from out of state and the seemingly arbitrary nature of the termination in light of his peer reviews and patient satisfaction, all weigh in favor of narrowing or striking down the covenant to permit Dr. Lopez to work at the Maple Hollow location. On the other hand, the nonsolicitation of patients clause is more likely to be considered a reasonable limitation with a direct nexus to Sunvale Sports Medicine's legitimate business interests and may well be upheld as-is notwithstanding the termination without cause.

Scenario 4: Dr. Nguyen's caption is likely a violation of her nonsolicitation clause, and she may well receive a nastygram demand letter from Silverpine Ophthalmology's insisting that she remove the post. Even though the communication is through social media, it's intended specifically for an audience of preexisting patients; she even offers them a discount to divert business from her prior employer. Dr. Nguyen may not need to delete the post entirely, but revising the caption to reflect a neutral "new business opening" announcement for a general audience would minimize her risk. The restrictive covenant would also limit her ability to add, follow, friend, or DM Silverpine Ophthalmology's clients, particularly if a non-negligible part of her social media content is oriented toward promoting or generating business for her new clinic.

Scenario 5: Unfortunately, PA O'Connor's direct outreach to Marcus, a current staff member, and her facilitation of an informational interview, constitute classic examples of solicitation of staff, and courts generally are willing to enforce these restrictions as written, so long as they're reasonable in scope and duration. The fact that Silhouette Aesthetic Center is not directly competitive with Bluebell Radiology is mostly immaterial, as Bluebell Radiology's legitimate business interest is protecting its investment and expense in recruiting, training, and retaining staff, irrespective of the competitive or noncompetitive nature of the employer that poaches them. Although Marcus would be free to apply to Silhouette's job opportunities of his own accord, given his lack of restrictive covenants, PA O'Connor is still crossing a line when she recruits him on her new employer's behalf.



Scenario 6: Dr. Singh does not need to sever communication with his professional network entirely, but he should tread carefully, particularly with respect to non-medical referral sources. PCPs and other specialists retain independent professional judgment in making referrals and are free to continue to send patients to Dr. Singh irrespective of where he works. Although Dr. Singh should refrain from calling these medical professionals and actively encouraging them to send referrals to his new location, Road to Recovery should not endeavor to interfere with medical discretionary judgments and Dr. Singh he is free to continue to accept these patients if the PCPs and other specialists refer them of their own volition. Road to Recovery has stronger footing with the nonmedical referral sources. Developing and maintaining these relationships often involves significant marketing expenditures, branding, and business development efforts that the employer has a legitimate interest in protecting. Road to Recovery still cannot prohibit a third-party attorney from choosing to send patients to Dr. Singh, but it can prohibit Dr. Singh from cultivating those non-clinical, business driven relationships for a year under this restrictive covenant.

Scenario 7: LPN Rivera should be applauded for his mindfulness about complying with post-termination obligations, but he is not likely to be in violation of his restrictive covenant. The nonsolicitation clause bars active solicitation of patients, and LPN Rivera has been mindful not to initiate contact with Dr. Davies' patients or otherwise encourage them to leave. The fact that a few patients independently chose to seek him out at the urgent care center does not amount to solicitation. As long as he continues to refrain from targeting Dr. Davies' patients or endeavoring to induce them to leave, he may continue treating patients who come to him on their own initiative, as patient choice and continuity of care are protected interests.

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