

1 VERMONT MEDICAL SOCIETY
2 RESOLUTION

3
4 *Adopted on October 14, 2006*
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6 **Restrictive Covenants in Physician Employment Contracts**
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9 Whereas, Vermont has experienced difficulty in recruitment and retention and replacement of
10 retiring physicians, which limits patient access to health care, especially in rural areas,
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12 Whereas, Federally underserved designations apply to several areas in Vermont,
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14 Whereas, restrictive covenants may not be used by hospitals if they wish to qualify for a Stark II
15 safe harbor exemption regarding physician recruitment payments or J-1 waiver applications,
16 both of which are used to bring physicians to these Federally underserved areas,¹
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18 Whereas, the American Medical Association has issued an Ethics Statement calling certain
19 restrictive covenants unethical,²
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21 Whereas, restrictive covenants in physician contracts are illegal in states such as Colorado,
22 Delaware and Massachusetts,³
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24 Whereas, the Vermont Medical Society has always viewed the doctor-patient relationship to be
25 the most important role physicians play in the care of the State's citizens, as recognized by our
26 motto *non pro nobis laboramus*,
27

28 Whereas, physicians in rural areas become part of the fabric of their communities and restrictive
29 covenants that force physicians to move away break apart those community ties,
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31 Whereas, these clauses continue to be used to restrict physicians ability to practice in their local
32 communities thus limiting patients access to care by forcing patients to either change doctors or
33 travel unreasonable distances to see their doctor,
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35 Whereas, restrictive covenants cause physicians to seek positions outside Vermont, further
36 limiting patients access to health care; therefore, be it
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38 **RESOLVED, that the Vermont Medical Society take a stand against such restrictive**
39 **covenants in physician contracts; and be it further,**
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41 **RESOLVED, that the Vermont Medical Society work to support health care reform**
42 **legislation that would make these restrictive covenants illegal in Vermont.**

¹ 42 CFR § 411.357, 45 CFR § 50.5.

² AMA Policy E-9.02, www.ama-assn.org/ama/pub/category/print/8519.html.

³ C.R.S. 8-2-113, 6 Del. C. § 2707, ALM GL ch. 112, § 12X.