VERMONT MEDICAL SOCIETY

RESOLUTION

Adopted on October 14, 2006

Restrictive Covenants in Physician Employment Contracts

Whereas, Vermont has experienced difficulty in recruitment and retention and replacement of retiring physicians, which limits patient access to health care, especially in rural areas,

Whereas, Federally underserved designations apply to several areas in Vermont,

Whereas, restrictive covenants may not be used by hospitals if they wish to qualify for a Stark II safe harbor exemption regarding physician recruitment payments or J-1 waiver applications, both of which are used to bring physicians to these Federally underserved areas,\(^1\)

Whereas, the American Medical Association has issued an Ethics Statement calling certain restrictive covenants unethical,\(^2\)

Whereas, restrictive covenants in physician contracts are illegal in states such as Colorado, Delaware and Massachusetts,\(^3\)

Whereas, the Vermont Medical Society has always viewed the doctor-patient relationship to be the most important role physicians play in the care of the State’s citizens, as recognized by our motto *non pro nobis laboramus*,

Whereas, physicians in rural areas become part of the fabric of their communities and restrictive covenants that force physicians to move away break apart those community ties,

Whereas, these clauses continue to be used to restrict physicians ability to practice in their local communities thus limiting patients access to care by forcing patients to either change doctors or travel unreasonable distances to see their doctor,

Whereas, restrictive covenants cause physicians to seek positions outside Vermont, further limiting patients access to health care; therefore, be it

RESOLVED, that the Vermont Medical Society take a stand against such restrictive covenants in physician contracts; and be it further,

RESOLVED, that the Vermont Medical Society work to support health care reform legislation that would make these restrictive covenants illegal in Vermont.

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\(^1\) 42 CFR § 411.357, 45 CFR § 50.5,
\(^3\) C.R.S. 8-2-113, 6 Del. C. § 2707, ALM GL ch. 112, § 12X.