

MEDCHI, THE MARYLAND STATE MEDICAL SOCIETY  
HOUSE OF DELEGATES

Resolution 8-21

INTRODUCED BY: Baltimore County Medical Association

SUBJECT: Restrictive Covenants

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Whereas, competition among physicians is ethically justifiable when it is based on such factors as quality of services, skill, experience, conveniences offered to patients, fees, or credit terms<sup>i</sup>; and

Whereas, covenants-not-to-compete restrict competition, can disrupt continuity of care, and may limit access to care and have an adverse effect on the career or life of physicians<sup>ii</sup>; and

Whereas, the American Medical Association (AMA) recommends that physicians should not enter into covenants that do not make reasonable accommodation for patients' choice of physician, and also recommends that physicians in training should not be asked to sign covenants-not-to-compete as a condition of entry into any residency or fellowship program<sup>iii</sup>; and

Whereas, large medical practices and health care facilities would argue that covenants-not-to-compete reasonably drafted do no more than protect the company's legitimate business interest and are enforceable; and

Whereas, Maryland courts have upheld covenants-not-to-compete in employment contracts, but in other states restrictive covenants are unenforceable; and

Whereas, medical practice consolidation and acquisition by hospitals have become frequent and commonplace, making covenants-not-to-compete even more consequential to both physicians and employers and important for discussion; therefore be it

Resolved, that MedChi form a Task Force to investigate restrictive covenants-not-to-compete to study possible solutions.

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Fiscal Note: Moderate expenses related to staff time for managing a new task force.

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<sup>i</sup> American Medical Association Code of Medical Ethics Opinion 11.2.3.1

<sup>ii</sup> American Medical Association Code of Medical Ethics Opinion 11.2.3.1

<sup>iii</sup> American Medical Association Code of Medical Ethics Opinion 11.2.3.1