

Using Restrictive Covenants in an Outpatient Mental Health Practice Checklist

Jeff Zimmerman, Ph.D., ABPP

Many practice owners consider using restrictive covenants with employees. Before doing so, be sure to consider the following:

- **Know the Law:** Familiarize yourself with the legality of restrictive covenants in your jurisdiction and seek legal advice to ensure compliance.
- **Assess Necessity:** Determine whether a restrictive covenant is necessary to protect your practice's legitimate interests, such as referral relationships.
- **Be Specific:** Clearly define the scope, duration, and geographic limitations of the restrictive covenant to make it enforceable and reasonable.
- **Determine which Employees:** Determine which types of jobs should be subject to such agreements.
- **Provide Consideration:** Offer adequate consideration or compensation in exchange for employees agreeing to the restrictive covenant.
- **Draft with Clarity:** Use clear and concise language when drafting the terms of the restrictive covenant to avoid ambiguity.
- **Assess Enforceability Factors:** Determine if your intended agreement is actually enforceable in your jurisdiction.
- **Regular Review:** Periodically review and update restrictive covenants to reflect changes in your practice's needs or legal requirements.
- **Communicate Effectively:** Clearly communicate the purpose and implications of restrictive covenants to employees, and address any questions or concerns they may have.
- **Explore Alternatives:** Consider alternative measures, such as confidentiality agreements or non-solicitation clauses, to achieve your practice's objectives without overly restricting employee mobility.
- **Document Everything:** Keep accurate records of employees who have agreed to restrictive covenants, including signed agreements and related correspondence.

- **Seek Legal Guidance:** When in doubt, consult with legal professionals who specialize in employment law and have experience with restrictive covenants in the healthcare industry.

Carefully considering whether or not to use restrictive covenants can help in recruiting and avoiding costly legal battles in the future.

Member Note: TPI members have access to our expanded guides. For more information about restrictive covenants be sure to check out our Tips Guide.

The practice of your dreams can be your reality. If you're looking for personalized guidance or more on this topic, consider a one-on-one consultation with a TPI consultant. Contact us at support@thepracticeinstitute.com to arrange a convenient time.

TPI members have access to our expanded checklists, guides, and tips; a free one-on-one consultation; access to our on-demand Answer Desk; and free small group discussions on a variety of practice needs.

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