

Part B Insider (Multispecialty) Coding Alert

Physician Notes: Non-Compete Keeps Physician From Setting Up Office Across The Street

Court rules that doctor can't work within 25 miles of old stomping ground

If you're hiring a physician and you're concerned that he or she may run away with your favorite patients, you have a recourse.

Medical offices can hold doctors to the terms of non-compete agreements the doctors sign, the Nashville, TN Court of Appeals ruled in *Murfreesboro Medical Clinic v. David Udom* (M2003-00313-COA-R9-CV). Udom signed up for two years at the clinic and agreed to a non-compete saying he wouldn't practice medicine within 25 miles of the clinic for 18 months after leaving.

But Udom was allowed to compete as long as he paid the clinic twelve times his most recent monthly salary. The chancery court granted an injunction enforcing the non-compete but also ruled that Udom could pay the clinic and keep practicing in his new office 15 miles away.

Udom appealed, insisting the injunction was unfair and the non-compete was unenforceable. The appeals court struck down the injunction, since the non-compete already allowed Udom to pay his way out of it. But the appeals court also ruled that the clinic had a genuine business interest in keeping Udom from practicing nearby and Udom had proved he wasn't beset by economic hardships by coughing up his salary.

Finally, the court ruled that while the right of patients to choose their own doctor is an important one, so is the clinic's right to protect its business. So the non-compete wasn't unenforceable, the court insisted.

1. **The HHS Office of Inspector General's recent guidance on waiving copayments and deductibles** for indigent hospital patients doesn't quite apply to physicians, officials from the **Centers for Medicare & Medicaid Services** said in the Feb. 23 physician Open Door Forum. But in general, if you make a serious effort to collect cost-sharing amounts from patients, it's OK to let them off the hook. Just don't use this as an incentive to encourage "cherry" patients to visit your office, officials warned.
2. **A Republican-backed bill that would have limited non-economic damage awards** in medical liability lawsuits only for **Ob-Gyn physicians** died in the Senate after its proponents failed to overcome a filibuster. Only 48 Senators voted in favor of ending debate, reports the Seattle Times.
3. **Ending racial disparities in health care would be a top priority for Senate Majority Leader Bill Frist** (R-TN), Frist told the Washington Times. His proposed bill would improve education and research opportunities for minorities, widen access to quality care, improve data collection, and ensconce the **HHS Office of Minority Health** permanently.