Policy on the Use of Non-Compete Agreements

Adopted: May 9, 2000
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Introduction
Washington University School of Medicine requires a broad, diverse patient base in order to fulfill its mission of educating medical professionals and conducting advanced research. The School of Medicine invests significant financial resources in its clinical faculty in order to facilitate the development of such a patient base. The use of non-compete agreements is one method to protect the institution's investment in its clinical and research patient base.

Purpose
Non-compete agreements protect Washington University School of Medicine (WUSM) from dilution of its patient base by a faculty member without imposing an unreasonable restraint on the faculty member’s ability to practice medicine.

Policy Statement
All candidates for investigator track and clinician track faculty positions who will perform any level of clinical activity will be expected (except in rare circumstances) to execute a non-compete agreement as a condition of initial appointment and, in certain circumstances, ongoing employment.

- The language in the non-compete agreement should be standard across all departments for investigator and clinician faculty, except as may be approved by the Faculty Practice Plan CEO.

- The standard terms of the non-compete agreement preclude a faculty member from competing:
  - during employment and for two (2) years after employment terminates, and
  - within a specific mile (generally, 15) radius from WUSM and a specific mile (generally, 15) radius from any facility at which the faculty member or any WUSM faculty member in the faculty member’s specialty or subspecialty practices at the time of the faculty member’s termination of employment.

- The foregoing restriction would not apply if WUSM terminated a faculty member’s employment without cause.
The agreement also would preclude a faculty member (during employment and for 2 years after employment terminates) from employing or attempting to employ WUSM employees, soliciting the medical business of or interfering in WUSM's relationships with patients, soliciting in writing the medical business of or interfering in WUSM's relationships with referring parties, or interfering in WUSM's relationships with entities that contract for services.

See Attachment 1 for the WUSM language. This language is the standard non-compete agreement language and is considered reasonable and enforceable.

An Ad Hoc Committee of the Faculty Practice Plan Board will be appointed by the Board Chair to establish principles for any exceptions to this policy. Requests for exception or modification must be submitted by the Department Head to the Faculty Practice Plan CEO. The CEO will utilize the principles established by the Ad Hoc Committee to review such requests and determine whether they shall be granted. If the Department Head and FPP CEO are not in agreement on whether an exception/modification should be granted, the Ad Hoc Committee will review and decide upon the request.

Standard procedures have been developed to support the implementation of the WUSM non-compete agreements. These procedures include:

- Offer letters must be generated for all newly recruited faculty members and must contain a description of the non-compete agreement as a condition of appointment and continued employment. A copy of the non-compete agreement should be attached to the offer letter.
- Newly recruited faculty members must sign and date the offer letter and the non-compete agreement prior to commencement of employment.
- Standard non-compete agreements should be used for investigator and clinician track faculty. Agreements for clinician track faculty are separate from the clinician track contract.
- Existing faculty members will not be required to sign a non-compete agreement. Departments may request existing faculty to sign a non-compete agreement. These requests may arise in conjunction with new business opportunities (i.e. significant investments in new offices, clinical or academic programs) or changes in the terms and conditions of employment.
- If an existing tenured faculty member executes a non-compete agreement, his or her department should recite in the Agreement the consideration, if any, that is provided in exchange.