

## **2026 HOD Resolution 1:**

**Resolution:**               **Prohibit Physician Restrictive Covenants in Most Employment Settings**

**Sponsored by:**       **Medical Society of New Jersey Executive Committee**

**Whereas,** restrictive covenants (including non-compete clauses) are contractual provisions that limit a physician’s ability to practice medicine within a defined geographic area and time period following the termination of employment; and

**Whereas,** the Medical Society of New Jersey’s current policy recognizes that restrictive covenants may serve limited business purposes in certain employment arrangements, but emphasizes that such justifications diminish over time and that any restrictions should be narrowly tailored; and

**Whereas,** existing MSNJ policy also highlights the importance of minimizing the geographic and temporal scope of restrictive covenants and encourages alternative dispute resolution to reduce the cost and burden of litigation; and

**Whereas,** recent survey data of New Jersey physicians demonstrates that restrictive covenants remain widespread, particularly among employed physicians in larger practice settings; and

**Whereas,** that same survey reflects overwhelming physician sentiment in favor of reform, with a strong majority supporting prohibition of restrictive covenants in most or all employment settings and only a small minority supporting their continued unrestricted use; and

**Whereas,** survey respondents further indicated that, even where permitted, restrictive covenants should be eliminated or limited to minimal geographic scope and duration; and

**Whereas,** restrictive covenants can disrupt continuity of care by forcing physicians to leave communities, thereby undermining physician–patient relationships and patient access to care; and

**Whereas,** the preservation of the physician–patient relationship and patient choice are fundamental to high-quality care; and

**Whereas,** restrictive covenants may exacerbate physician workforce shortages, particularly in underserved communities; and

**Whereas,** the increasing consolidation of healthcare systems has expanded the use of restrictive covenants beyond the limited circumstances contemplated in MSNJ’s existing policy, often without meaningful physician bargaining power; and

**Whereas,** restrictive covenants can limit physician mobility, professional autonomy, and the ability to respond to changing practice conditions; and

**Whereas,** excessive use of restrictive covenants may contribute to higher healthcare costs and reduced competition; and

**Whereas,** small, physician-owned practices may retain legitimate interests in narrowly tailored restrictions to protect practice investments and goodwill; and

**Whereas,** policymakers nationwide are increasingly scrutinizing or limiting non-compete agreements in healthcare; and

**Whereas,** MSNJ remains committed to physician autonomy, patient access, and physician-led, patient-centered care; and

**Whereas,** updating MSNJ policy to discourage or prohibit restrictive covenants in most employment settings, while preserving limited use in small physician-owned practices, would align with these principles and current physician sentiment; therefore be it

**RESOLVED,** that the Medical Society of New Jersey (MSNJ) adopts a policy opposing the use of restrictive covenants, including non-compete clauses, in physician employment agreements, except in limited circumstances involving physician-owned practices of under ten physician clinicians, where such provisions are narrowly tailored to protect legitimate business interests; and be it further

**RESOLVED,** that any restrictive covenant permitted under this policy shall be reasonable and narrowly tailored in scope, including minimal geographic and temporal limitations tied to the physician's primary practice location; and be it further

**RESOLVED,** that MSNJ shall advocate for statutory and regulatory reforms consistent with these principles, reflecting the strong preference of New Jersey physicians for elimination of restrictive covenants, while preserving only limited use in small physician-owned practices with strict limitations; and be it further

**RESOLVED.** that MSNJ encourages the use of less restrictive alternatives, including non-solicitation agreements, confidentiality provisions, and alternative dispute resolution, in lieu of restrictive covenants wherever possible; and be it further

**RESOLVED,** that this policy supersedes prior MSNJ policy statements on restrictive covenants to the extent they are inconsistent with these positions.