Question. May an attorney include as part of an employment agreement with an associate a restrictive covenant prohibiting the associate from practicing law within a stated distance of the attorney’s office upon termination of the association?

Answer: Qualified no.

References: DR 2-108(A); ABA Formal Opinion 300

OPINION

Such a restrictive covenant is improper except as a condition to payment of retirement benefits.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.