

The following sample agreement is provided only as an example. It is intended for familiarizing parties who are considering entering into such arrangement. However, this sample should not be used without the services of an attorney. The law varies from jurisdiction to jurisdiction and parts of this agreement may be invalid, incomplete or unenforceable depending upon the jurisdiction in question.

Employment Agreement— Straight Employment

This Agreement is made and entered into this _____ day of _____, 201____, by and between _____ (hereinafter "Employee"), and _____, D.C., (hereinafter "Employer").

WHEREAS, _____ Corporation* is duly organized and licensed to practice chiropractic in the state of (State) as a Professional Corporation and is presently engaged in the practice of chiropractic in (City), (State), and

WHEREAS, Employee has requested that Employer employ him or her as a chiropractor, and

WHEREAS, Employer does need the services of chiropractor, and is willing to hire Employee in order to provide Employee with training and employment, and

NOW, THEREFORE, the parties agree as follows:

(The first several paragraphs are used to state when the agreement is entered into and by whom. It stipulates the simple qualifications of each party and in the last section lays out a primary point of protection in the event the covenant not to compete is violated. Enforcement of a covenant not to compete can often times prove difficult to enforce. However, the agreement states that the associate is needed and the Employer is willing to provide training and employment.)

1. Employment. Employer hereby employs Employee and Employee hereby accepts employment from Employer during the term set forth below, upon the terms and conditions set forth herein. (It is important to note that the Employee is accepting employment based upon the terms and conditions which are stated in the contract.)

* For the purpose of this example, a corporation is referenced. However, the same concepts generally will apply to other practice legal structures, as well.

2. Term. The term of this Agreement shall commence on a date designated by Employee, which date shall be (Date Employment Begins). The Employment Agreement shall continue until the last day of the twelfth (12th) month following the month in which Employee commences employment, unless sooner terminated by the parties as provided herein.

(A set duration for the agreement can establish the specific expectations for the parties. However, from a practical standpoint, the Employer is bound by the length of the contract but the Employee may not be. There is little relief available to an Employer if the Employee resigns before the expiration of the term of employment as set forth in the contract. For that reason, the Employer may consider an "at will" contract term. The agreement is still controlling to establish the terms of the employment so long as it continues, but leaves both parties free to terminate the relationship at any time. The Employer might also consider stating the renewal terms in this section instead of in Section 9.)

3. Compensation. Compensation shall be at the annual rate of \$(Amount of Compensation). Uncollected amounts due to bad debt shall not be deducted from compensation. Each party mutually agrees that Employer shall own all of the accounts receivable generated during the term of this agreement.

(The sample is currently drafted as an annual salary. Other compensation possibilities that could be spelled out in the agreement include bonuses, or compensation based on a revenue sharing or production unit basis.)

4. Duties. Employee shall engage in the practice of chiropractic at Employer's office or offices in (City), (State). Employee shall conduct herself in a manner consistent with all ethical requirements of professionals in his or her capacity in the state of (State), and in a manner consistent with the conduct acceptable for chiropractors in said locale.
5. Expenses and Facilities. Employer shall provide Employee with professional liability insurance coverage with limits of at least \$____/\$____ (e.g., \$1 million/\$3 million, at the expense of Employer. Employer shall pay all professional dues and license fees applicable to Employee. Employer shall pay continuing education expenses including course books, tuition, and over-night lodging in any calendar year. Employee shall be entitled to participate in Employer's retirement plan as outlined in the "Summary Plan Description." Employer shall also provide Employee with office facilities including all equipment and instruments necessary to conduct Employee's chiropractic practice, an office space for Employee, and the services of a chiropractic assistant together with such supplies, including uniforms, and

other facilities as are reasonably necessary for the efficient conduct of the practice of chiropractic by Employee. Personal office furnishings shall be provided by Employer.

(This section is covering some options of benefits for the Employee. These benefits will vary in each practice but certain benefits may require your participation. We would recommend that what is offered should compete with your local market. If you have a retirement plan in place, you must be very careful not to violate the terms of the plan. Prior to bringing in an associate this subject needs to be discussed with the plan's administrator. An average office's offering would include professional liability, continuing education in the annual range of \$250 to \$500, supplies and uniforms.)

6. Reimbursement. Employer shall pay or reimburse Employee for all reasonable expenses incurred by him or her on behalf of Employer at Employer's request. Reimbursement shall be made only for expenses approved in advance by Employer and upon presentation by Employee to Employer of itemized statements or receipts in a form satisfactory to Employer. Expenses incurred by Employee to maintain an office in his or her home, attend conventions, and maintain membership in chiropractic societies shall all be considered expenses of the Employee.
7. Vacations. Employee may absent herself for personal or vacation time of not more than ___ days during any calendar year.

(Employers have several different options to deal with time off. They may allocate specific number of days to vacation time, sick time, personal time, or holiday time. Other employers use paid time off (PTO) as one identifier for all time off during the year with no difference between vacation, sick, and personal time.)

8. Hours of Practice. The parties agree that Employee shall be scheduled for regular office hours as mutually agreed by the parties in a (full/part)-time capacity. By (full/part)-time capacity, the parties agree that Employee shall be scheduled for work at least (Number of Hours) (___) hours in any given week unless Employee uses (vacation/sick/PTO) time off as set forth above.

(The point to consider in this section is that when bringing in any Employee that Employee qualifies for most benefits if working 1,000 hours or more per year. Some offices may be looking for the Employee/Associate to provide "over-load" assistance and may need the Employee fewer than 20 hours per week. It is assumed, however, most would be looking for "full-time"

assistance. It is with these employees additional risk may occur.)

9. Termination of Employment. This Agreement may be terminated by the parties under any of the following events:
- A) Immediately in the event Employee shall be guilty of fraud, dishonesty or any other act of gross misconduct in the performance of Employee's duties, which involves moral turpitude.
 - B) Immediately upon Employee being in breach of any provision of this Agreement after having fifteen (15) days' notice from Employer of such breach and the opportunity to cure.
 - C) Upon notice from the Employer in the event Employee shall become totally disabled for a period of ninety (90) days or more, which prevents Employee from performing the substantial duties of his or her employment.
 - D) Upon the mutual agreement of the parties.
 - E) Upon any date following the completion of the one-year term set forth under this Agreement provided, however, that the party desiring to terminate said Agreement shall give at least ninety (90) days written notice to the other party of their intent to terminate the Agreement upon a date following completion of said one-year term. In the absence of such notice, such Agreement shall continue following the expiration of said term until terminated as provided under this paragraph 9.
 - F) Upon the death of Employee.
 - G) Upon either party giving thirty (30) days written notice of intent to terminate during the first six (6) months of this Agreement, which shall be effective without cause.
10. Covenant Not to Compete. Following the completion of the initial six months of employment and during the remaining term of this association and for a period of one (1) year after termination of the association, Employee shall not, without the prior written consent of Employer, engage in or in any manner be connected or concerned directly or indirectly, whether as an officer, director, stockholder, partner, owner, employee or otherwise, with the operation, management or conduct of any practice of chiropractic within a (Number of Miles) (___) mile radius of (Community Practice Located), (State), other than as an Employee of Employer pursuant to this Agreement.

The parties agree that this covenant is reasonable and necessary to protect the interests of Employer hereunder in retaining the patients of Employer's offices. In the event Employee directly or indirectly violates any of the provisions of this covenant, the parties agree that the

Employer will not have an adequate remedy of law and that injunctive relief shall be available to Employer to restrain any further breach, in addition to any other remedies at law.

The parties further agree that in the event of any breach, the amount of damages which would be sustained would be difficult to ascertain and the parties hereby agree that Employer shall be entitled to obtain liquidated damages, and not as a penalty, an amount equal to the salary and fringe benefits paid or provided by Employer to Employee during the previous one hundred eighty (180) days. In addition, he or she shall be responsible for the payment of all of the Employer's expenses, including reasonable attorney's fees, incurred in the enforcement of such covenants.

(The enforceability of covenants will vary, and it is difficult, if not impossible, to say what works in one location will work in another. You will need to discuss this with your attorney who may have had experiences in this area of contract law. For instance, the mile radius used will vary. In smaller communities it is not unusual to see radius distances discussed in the 20, 30 and even 50 mile range. In larger urban areas the distance discussed might be in the one to five mile range. And, then again some areas won't recognize any distance range at all. The same applies to the liquidated damages provision. Some states will enforce them; some states will not. Covenants not to compete can be difficult to enforce, are fact specific, and can vary from case to case and state to state. One alternative that may be more enforceable is to establish a "contract" where the new doctor agrees to pay \$x to the established doctor if he/she opens up within a certain radius. Be sure to consult your attorney for an option that works for your practice in your practice location.)

11. Records. Upon the termination of this Agreement, Employee shall not be entitled to keep or preserve records or charts of Employer as to any patient unless said patient shall specifically request a different disposition of his records, and in no event shall Employee be entitled to the records of patients not treated by him or her. Copies of the records of patients treated by Employee will be made available to Employee for the defense of any claims against Employee after termination of this Agreement.

(The records are always retained by the practice. As it states, copies of the records of the patient's treatment by the Employee can be made available for defense of potential claims, but original records are always kept by the Employer.)

12. Attorneys' Fees. In the event of a breach of this Agreement by any party, the prevailing party shall be entitled to recover its attorney's fees and other costs incurred in any enforcement or litigation incurred as a result of a breach or alleged breach of the Agreement.
13. Notices. Any notice required or permitted to be given under this Agreement shall be sufficient, if in writing, and given to the party at their last known address or such other address as is specified in this Agreement, or by such party in writing from time to time.
14. Governing Law. This Agreement shall be governed by the laws of the State of (State) and enforced in (County) County.

(It is important to note where the agreement will be enforced, which should be the state in which the employment occurs.)

15. Severability. If any provision of the Agreement is held invalid by any tribunal in a final decision from which no appeal is or can be taken, such provision shall be deemed modified to eliminate the invalid element, and, as so modified, such provision shall be deemed a part of this agreement. If it is not possible to modify any such provision to eliminate the invalid element, such provision shall be deemed eliminated from this Agreement. The invalidity of any provision of this Agreement shall not affect the force and effect of the remaining provisions.

(This paragraph is also important as it states if a provision is modified or eliminated, the invalidity and elimination does not affect the remaining provisions. This is an important section and must be included in all agreements.)

16. Forum Selection and Jury Waiver. Employer and Employee agree that any dispute arising under or related to this Agreement shall be litigated in a state or federal court in _____ [county and state of practice]. The parties agree to waive the right to transfer venue of this action to any other jurisdiction. **EMPLOYER AND EMPLOYEE WAIVE ANY RIGHT TO A TRIAL BY JURY FOR ANY CLAIMS ARISING UNDER OR RELATED TO THIS AGREEMENT.**

(A jury trial waiver can be an effective tool for the Employer. Juries may feel sympathetic to employees in these types of disputes, so keeping the decision in the hands of the judge can be important for an Employer.)

