



# Protect Your Key Information – And Your Key Relationships

Insights

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Decades ago, it was reasonable to imagine that one could work for the same company from the start of one's career to the end. Think about the world portrayed in *Mad Men*. Don Draper has mostly worked with the same fictional co-workers – Roger Sterling, Pete Campbell, Joan Harris, Bert Cooper, etc. – for the better part of a decade. This is not just a function of Matthew Weiner keeping the same actors around; it's a relatively accurate portrayal of work in the 1960s.

Times are different now. Workers change jobs (and often careers) with far more regularity than they did in the years following World War II. Medical practices are no different. They experience turnover just like other businesses. Each time an employee leaves – whether voluntarily or otherwise – he or she can depart with valuable information and patient relationships. The higher an employee's perch in a practice, the more likely it is that he or she can go to a competitor and move patients in the process.

A prudent medical-practice decisionmaker will prepare for this possibility. The advice that you give patients on the proverbial ounce of prevention applies just as much to taking steps to prevent employees from taking your confidential information and patient relationships when they leave.

Here are some best practices so you can look like a superstar when an employee defection crisis hits.

## Have Agreements In Place

The best way to protect your medical practice against threats from former employees is to have restrictive-covenant agreements in place. This applies to physicians, as well as many other employees at a typical practice. Such agreements can deter employees from leaving in the first place.

If they choose to depart, then the agreements can prevent the employee from: 1) competing in certain territories and/or on behalf of certain competitors; 2) soliciting patients; 3) taking coworkers; and 4) using or disclosing confidential information. Remember that state laws vary regarding the enforceability of such agreements, so you should work with legal counsel to determine what you can do in your agreements.

## Identify Your Key Information – And Protect It

To stop an employee from using or disclosing confidential information, you need to show that information is truly non-public. If other employees are permitted to walk out the door with that information, then such a showing will be very difficult. Likewise, if the information is provided to third parties without safeguards in place, then the information will lose its confidential character.

Ask yourself two questions. First, what information would be most useful to your competitors if an employee left with it? Second, if asked by a judge, how many measures could you list to show that you take reasonable means to ensure that the information remains private?

### **Prevent Misuse Of Your Practice's Computer System**

Employers are learning the importance of putting employees on written notice as to what they are not authorized to do on the company computer system. There are federal and state laws available to punish computer abuse, but the key to unlocking the power of those laws is showing that the employee was not authorized to do what he or she did on the system.

### **Pay For Their Cell Phones**

In the grand scheme of things, it is penny wise and pound foolish to have key employees pay for their own cell phone plans. If your practice maintains the account, then it can: 1) terminate the account when employees leave so patients cannot reach out to them; 2) determine who employees have been contacting; and 3) stop employees from walking out with a de facto patient list on their phones.

### **Preserve The Hard Drive.**

Computers are expensive. Hard drives are not. The moment that an employee resigns and says that he or she is leaving and going to a competitor, pull the hard drive out of the employee's computer and keep it in a drawer. You'll be surprised what you can find on it.

In sum, dealing with departing employees is a three-stage process. There is the planning stage beforehand and then there is the preserving and investigating after the resignation/termination. Handle all three stages well and you will be well-prepared in the event that your Don Draper decides that he does not like management and is going to make a change.

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*For more information, contact the author at [MElkon@fisherphillips.com](mailto:MElkon@fisherphillips.com) or 404.231.1400.*

### **Related People**





**Michael P. Elkon**

Partner

404.240.5849

Email