

27 NCAC 02 RULE 5.6 RESTRICTIONS ON RIGHT TO PRACTICE

A lawyer shall not participate in offering or making:

- (a) a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or
- (b) an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy.

Comment

[1] An agreement restricting the right of lawyers to practice after leaving a firm not only limits their professional autonomy but also limits the freedom of clients to choose a lawyer. Paragraph (a) prohibits such agreements except for restrictions incident to provisions concerning retirement benefits for service with the firm.

[2] Paragraph (b) prohibits a lawyer from agreeing not to represent other persons in connection with settling a claim on behalf of a client.

[3] This Rule does not prohibit restrictions that may be included in the terms of the sale of a law practice pursuant to Rule 1.17. The Rule also does not prohibit restrictions on a lawyer's right to practice that are included in a plea agreement or other settlement of a criminal matter or the resolution of a disciplinary proceeding where the accused is a lawyer.

History Note: Authority G.S. 84-23;
Adopted September 24, 2015; March 1, 2003; July 24, 1997.

ETHICS OPINION NOTES

RPC 13. A retirement agreement may require a lawyer to accept inactive status as a member of the State Bar as a condition of payment of retirement benefits.

RPC 179. A lawyer may not offer or enter into a settlement agreement that contains a provision barring the lawyer who represents the settling party from representing other claimants against the opposing party.

2001 Formal Ethics Opinion 10. Opinion prohibits a lawyer from entering into an employment agreement with a law firm that includes a provision reducing the amount of deferred compensation the lawyer will receive if the lawyer leaves the firm before retirement to engage in the private practice of law within a 50-mile radius of the firm's offices.