

**Missouri State Medical Association  
House of Delegates**

Resolution # 5  
(A-24)

Introduced by:           St. Louis Metropolitan Medical Society

Subject:                    Waiver of Due Process Clauses

Referred to:

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1   **WHEREAS**, the right to and access to “due process” protection is a fundamental right enjoyed by all  
2   employed Americans, unless specifically waived by the employee; and,  
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4   **WHEREAS**, approximately half of all physicians are employed<sup>1</sup> by employers that are not local,  
5   physician-owned groups; and,  
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7   **WHEREAS**, these physicians typically have signed an employment agreement with their non-physician  
8   employer; and,  
9  
10  **WHEREAS**, many employment agreements offered to such employed physicians contain “Waiver  
11  of Due Process” clauses, which the non-physician employer has inserted to nullify the physician-  
12  employee’s due process rights; and,  
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14  **WHEREAS**, by working at the patient care interface, physicians are uniquely situated to detect threats  
15  to patients’ health and well-being that have not been recognized or acknowledged by members of  
16  hospitals’ administrations; and,  
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18  **WHEREAS**, hospital administrators have occasionally retaliated against physicians who have reported  
19  threats to patient or hospital worker safety in a manner that adversely impacts the physician’s  
20  employment security, income stream and access to ongoing opportunities to provide patient care,  
21  especially after within-organization reporting has failed to result in the employer addressing or resolving  
22  those threats; and,  
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24  **WHEREAS**, “due process” protections are thus essential for physicians, because they are duty-bound to  
25  advocate for the best interest of patients and co-workers, without fear of adverse job actions on the  
26  part of their employer; and,  
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28  **WHEREAS**, federal legislation proposing to ban Waiver of Due Process provisions in the employment  
29  contracts of some physicians was introduced in the 116th Congress of the United States of America,  
30  the “ER Hero and Patient Safety Act”, also known as HR 6910<sup>2</sup>, a proposed law that was not enacted;  
31  and,  
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33  **WHEREAS**, the American Medical Association House of Delegates adopted Resolution I-205-2022,  
34  advocating that our AMA work for the abolition of “Waiver of Due Process” clauses in physicians’  
35  employment agreements; and,  
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37 **WHEREAS**, the AMA has since developed model state legislation on this topic<sup>3</sup>, yet has not developed  
38 model federal legislation regarding this matter as had been envisioned within the “ER Hero and Patient  
39 Safety Act”<sup>2</sup>; therefore, be it,  
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41 **RESOLVED**, that the Missouri State Medical Association (MSMA) advocates that “Waiver of Due  
42 Process” clauses must be eliminated from all employment agreements between employed physicians  
43 and their non-physician employers, and be declared null and void in physicians’ previously-executed  
44 employment agreements between physicians and their non-physician employers that currently exist;  
45 and, be it further,  
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47 **RESOLVED**, our MSMA will propose a Resolution to the 2024 Annual Meeting of the House of Delegates  
48 of the American Medical Association, asking that our AMA extend its prior state-level efforts, by  
49 drafting model federal legislation patterned after the “ER Hero and Patient Safety Act”, which, once  
50 enacted, would make “Waiver of Due Process” clauses illegal in physicians’ employment agreements  
51 between the physician and a non-physician employer, and, null and void within such employment  
52 agreements already in existence; and, be it further,  
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54 **RESOLVED**, that our AMA will engage in advocacy for adoption of such legislation at the federal  
55 level.

**Fiscal Note:     None**

**Current Policy:**

#### References

1. American Medical Association. AMA examines decade of change in physician practice ownership and organizations. <https://www.ama-assn.org/press-center/press-releases/ama-examinesdecade-change-physician-practice-ownershipand#:~:text=Employment%20status&text=In%20contrast%2C%20the%20share%20of%20physicians%20who%20were%20employed%20grew,fluctuations%20in%20the%20last%20decade>. Accessed December 31, 2023
2. 116th Congress of the United States. HR 6910-Emergency Room Hero and Patient Safety Act. <https://www.congress.gov/bill/116th-congress/house-bill/6910/text> Accessed February 12, 2022
3. AMA Model State Legislation re Waiver of Due Process Clauses