

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 228  
(A-24)

Introduced by: Missouri  
Subject: Waiver of Due Process Clauses  
Referred to: Reference Committee B

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1 Whereas, the right to and access to due process protections 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 by employers that are not local,  
5 physician-owned groups; and  
6  
7 Whereas, many employment agreements offered to such employed physicians contain “Waiver  
8 of Due Process” clauses, which the non-physician employer has inserted to nullify the physician-  
9 employee’s due process rights; and  
10  
11 Whereas, by working at the patient care interface, physicians are uniquely situated to detect  
12 threats to patients’ health and well-being that have not been recognized or acknowledged by  
13 members of hospitals’ administrations; and  
14  
15 Whereas, hospital administrators have occasionally retaliated against physicians who have  
16 reported threats to patient or hospital worker safety in a manner that adversely impacts the  
17 physician’s employment security, income stream and access to ongoing opportunities to provide  
18 patient care, especially after within-organization reporting has failed to result in the employer  
19 addressing or resolving those threats; and  
20  
21 Whereas, due process protections are thus essential for physicians, because they are duty-  
22 bound to advocate for the best interest of patients and co-workers, without fear of adverse job  
23 actions on the part of their employer; and  
24  
25 Whereas, federal legislation proposing to ban waiver of due process provisions in the  
26 employment contracts of some physicians was introduced in the 116th Congress of the United  
27 States of America, the “ER Hero and Patient Safety Act”, also known as HR 69102, a proposed  
28 law that was not enacted; and  
29  
30 Whereas, the AMA House of Delegates adopted Resolution I-205-2022, advocating that our  
31 AMA work for the abolition of waiver of due process clauses in physicians’ employment  
32 agreements; and  
33  
34 Whereas, the AMA has since developed model state legislation on this topic, yet has not  
35 developed model federal legislation regarding this matter as had been envisioned within the “ER  
36 Hero and Patient Safety Act”; therefore be it  
37  
38 RESOLVED, that our American Medical Association advocate that waiver of due process  
39 clauses be eliminated from all employment agreements between employed physicians and their  
40 non-physician employers, and be declared unenforceable in physicians’ previously-executed

1 employment agreements between physicians and their non-physician employers that currently  
2 exist (Directive to Take Action); and be it further

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4 RESOLVED, that our AMA will engage in advocacy for adoption of such legislation at the  
5 federal level. (Directive to Take Action)

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Fiscal Note: Modest - between \$1,000 - \$5,000

Received: 4/16/2024

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