

**RESOLUTION 12.2022-34 (A-23)
PEER TO PEER REVIEWER MUST BE OF SAME SPECIALTY AS
PHYSICIAN REQUESTING PROCEDURE**

ISMS Board Action Taken on 01/28/2023

Adopted Resolution 12.2022-34 (A-23), as submitted.

Medical Legal Council Recommendation to ISMS Board on 01/28/2023

The Council was provided with a copy of the resolution, including relevant ISMS policy, and the results of a member survey. The author participated in a discussion with the Council. The Council was advised that peer to peer review is a feature of Section 45 of the Prior Authorization Reform Act (Act), which went into effect on January 1, 2022. It states that a health insurance issuer or its contracted utilization review organization must ensure that all appeals are reviewed by a physician when the request is by a physician or a representative of a physician, and that reviewing physician must: 1) have a valid license to practice medicine in the US; 2) be in the same or similar specialty as a physician who typically manages the medical condition or disease; 3) be knowledgeable of, and have experience providing, the health care services under appeal; 4) not have been directly involved in making the adverse determination; and 5) consider all known clinical aspects of the health care service under review. The Act does not apply to ERISA plans, healthcare provided pursuant to the Workers' Compensation Act, or state group health plans.

The Council sympathized with the author's issue of not having a true peer review for procedure requests, and many Council members noted similar experiences. The Council further noted that a large percentage of patients are covered by ERISA plans, and that while the Act is helpful, improvements have yet to be seen and there is a gap in applicability.

The Medical Legal Council recommends that the ISMS Board of Trustees adopt Resolution 12.2022-34 (A-23), as submitted.