

**ILLINOIS STATE MEDICAL SOCIETY**

**Resolution 05.2022-05  
(A-23)**

Introduced by: B.H. Gerald Rogers, MD, ISMS Member

Subject: Research Alternative Dispute Resolution for Professional Liability  
Claims

Referred to: Medical Legal Council

---

1           Whereas, physicians are struggling to deal with the challenges presently caused  
2 by the ongoing coronavirus pandemic; and

3  
4           Whereas, with periodic mutations of the coronavirus, there does not seem to be a  
5 complete resolution to the pandemic; and

6  
7           Whereas, the practice of medicine has become more dangerous for physicians to  
8 be involved in the direct care of patients; and

9  
10           Whereas, it has become more dangerous for the physician's family in that those  
11 who are infected can be asymptomatic and could expose their entire family before being  
12 aware of the hazard; and

13  
14           Whereas, patients have avoided contact with physicians, put off surveillance  
15 procedures, and delayed surgery thus resulting in a fall in practice income; and

16  
17           Whereas, professional liability claims and expenses over the years continue to  
18 increase; therefore, be it

19  
20           RESOLVED, that ISMS research alternative forms of dispute resolution for  
21 professional liability claims in an effort to decrease increases in claims and expenses.

**Fiscal Note:**

None

**Existing ISMS policy and action related to this issue:**

Board of Trustees approved the white paper on health courts and other alternatives to the current professional liability system under the Illinois Code of Civil Procedure, for final editing and publication. (BOT 2011-JAN)

House of Delegates adopted Resolution 56 (A-10), as amended, which directed: that the Illinois State Medical Society prepare an authoritative report -- a "white paper" -- on health courts and other alternatives and legislative solutions for Illinois' medical liability crisis. The report should address the potential for health courts, medical review panels, patient compensation funds, "loser pays" programs, "safe harbors," and other innovative solutions; that the Illinois State Medical Society seek to engage the American Medical Association, specialty societies, the Illinois Hospital Association, and other stakeholders in a collaborative and coalition-building campaign to promote the adoption of a health court system and other innovative solutions for medical litigation in Illinois; that the Illinois State Medical Society convene a series of meetings with the executive, legislative and judicial branches of Illinois state government to begin the process of petitioning members of the Illinois delegation to the U.S. Congress and President Obama to place a health court pilot project in Illinois; that the Illinois State Medical Society support and/or cause to be introduced in the General Assembly legislation that will establish a health court system in the state for the adjudication of medical liability issues; and that the Illinois State Medical Society support or cause to be introduced legislation that will re-enact the non-damage-cap-related, but meaningful, medical liability reform provisions included in the 2005 medical liability reform law and other innovative solutions to address Illinois' medical liability crisis. (HOD 2010)

House of Delegates adopted Resolution 60 (A-07), which directed that the ISMS study full disclosure programs (those that expand on "I'm sorry" as another pathway for resolving medical liability issues) and how they can be implemented, and report back. (HOD 2007)

House of Delegates adopted Substitute Resolution 14 (A-06), which directed that the ISMS work to change the present Health Care Arbitration Act to make arbitration agreements clearly binding and so that non-emergent care may be predicated on an agreement; and that the ISMS supplement its educational materials on the Health Care Arbitration Act with a DRAFT arbitration agreement. (HOD 2007)

House of Delegates adopted Substitute Resolution 44 (A-06), which directed that the ISMS investigate alternatives to the tort system for medical malpractice claims, such as potential revisions to the Healthcare Arbitration Act. (HOD 2006)

House of Delegates adopted Substitute Resolution 12 (A-04), which directed that the Illinois State Medical Society encourage the use of the Health Care Arbitration Act and monitor the use of binding arbitration to deal with medical liability, and that the ISMS distribute information about the Health Care Arbitration Act to members through its Web site. (HOD 2005)