
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 999 Session of
2011

INTRODUCED BY STACK, EICHELBERGER, FOLMER AND FARNESE,
MAY 3, 2011

REFERRED TO BANKING AND INSURANCE, MAY 3, 2011

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
2 "An act reforming the law on medical professional liability;
3 providing for patient safety and reporting; establishing the
4 Patient Safety Authority and the Patient Safety Trust Fund;
5 abrogating regulations; providing for medical professional
6 liability informed consent, damages, expert qualifications,
7 limitations of actions and medical records; establishing the
8 Interbranch Commission on Venue; providing for medical
9 professional liability insurance; establishing the Medical
10 Care Availability and Reduction of Error Fund; providing for
11 medical professional liability claims; establishing the Joint
12 Underwriting Association; regulating medical professional
13 liability insurance; providing for medical licensure
14 regulation; providing for administration; imposing penalties;
15 and making repeals," providing for mandatory arbitration.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. The act of March 20, 2002 (P.L.154, No.13), known
19 as the Medical Care Availability and Reduction of Error (Mcare)
20 Act, is amended by adding a section to read:

21 Section 513.1. Civil action.

22 (a) Arbitration.--If an action commenced against a health
23 care provider cannot be settled by the parties, then the parties
24 shall submit the case to mandatory arbitration under the

1 authority of the court of common pleas of the relevant
2 jurisdiction and venue. The arbitration panel shall consist of
3 three persons, selected randomly by the president judge. One of
4 the three shall be an attorney who practices law in the
5 jurisdiction of the court; one shall be a medical professional
6 who has a primary residence or practice of medicine in the
7 jurisdiction; and one shall be a senior judge from the
8 jurisdiction, or, if no such senior judge is available, shall be
9 a senior judge appointed by the Chief Justice of the Supreme
10 Court of Pennsylvania.

11 (b) Appeals from arbitration.--Arbitration awards and
12 allocation of financial responsibility among multiple defendants
13 may be appealed. An appeal does not stay an arbitration award
14 although an appellate court may issue an order to stay to
15 prevent manifest injustice. Any party to an arbitration
16 proceeding may enforce an arbitration award or an allocation of
17 financial responsibility by filing a petition in the court of
18 common pleas in which the arbitration took place.

19 (c) Arbitration awards.--A defendant is required to pay an
20 arbitration award within 20 days after the award of damages by
21 the arbitration panel, to include interest at the legal rate or
22 to submit any dispute among multiple defendants to arbitration.
23 Interest at the rate of 18% per year begins to accrue 90 days
24 after the award.

25 (d) Jury trial.--Arbitration is an alternative to trial but
26 does not supersede or eliminate the right of a party to present
27 its case at trial. The decision of an arbitration panel, as well
28 as the inability of an arbitration panel to reach a decision,
29 shall be introduced at trial either by the testimony of one of
30 the arbitrators or by stipulation of the parties. Damages at

1 trial shall not be limited.

2 (e) Study.--Four years after the effective date of this
3 section, the Legislative Budget and Finance Committee shall
4 conduct a study of the effectiveness of the arbitration program
5 and shall report its findings to the Senate no later than five
6 years after the effective date of this section.

7 Section 2. This act shall apply to actions instituted on or
8 after the effective date of this act.

9 Section 3. Section 513.1 of the act shall expire five years
10 after its effective date.

11 Section 4. This act shall take effect immediately.