

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 846

Session of
1979

INTRODUCED BY HANKINS AND HAGER, JUNE 20, 1979

AS AMENDED ON THIRD CONSIDERATION, JULY 9, 1979

AN ACT

1 Amending the act of October 15, 1975 (P.L.390, No.111), entitled
2 "An act relating to medical and health related malpractice
3 insurance, prescribing the powers and duties of the Insurance
4 Department; providing for a joint underwriting plan; the
5 Arbitration Panels for Health Care, compulsory screening of
6 claims; collateral sources requirement; limitation on
7 contingent fee compensation; establishing a Catastrophe Loss
8 Fund; and prescribing penalties," further providing for
9 arbitration panels for health care.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 308, act of October 15, 1975 (P.L.390,
13 No.111), known as the "Health Care Services Malpractice Act,"
14 subsection (b) amended July 15, 1976 (P.L.1028, No.207), is
15 amended to read:

16 Section 308. Arbitration Panels for Health Care.--[(a) The
17 administrator shall establish a separate arbitration panel for
18 each claim; and after each panel renders its decision on the
19 claim it shall be disbanded.

20 (b) Each arbitration panel shall be composed of seven
21 members including two health care providers, two attorneys, one
22 of whom shall be designated as chairman by the administrator,

1 who shall determine questions of law and three lay persons who
2 are not health care providers nor licensed to practice law.
3 Wherever possible, the administrator shall select a hospital
4 administrator, podiatrist, or osteopathic physician or surgeon
5 as one of the health care provider panel members where the claim
6 involves a member of one of those classes of health care
7 providers.

8 (c) Arbitration panel candidates shall be selected from a
9 pool of candidates generated by the administrator. The rules and
10 regulations promulgated by the administrator pertaining to the
11 selection of arbitrators shall provide that the administrator
12 shall send simultaneously to each party an identical list of
13 five arbitration panel candidates in each of the three
14 categories together with a brief biographical statement on each
15 candidate. A party may strike from the list any two names which
16 are unacceptable in each category. Any mutually agreeable
17 candidate may be invited by the administrator to serve. Where
18 insufficient mutually agreeable candidates are selected for any
19 category a second list of that category shall be sent by the
20 administrator. If a complete arbitration panel is not selected
21 by mutual agreement of the parties the administrator shall
22 appoint the remainder of the arbitration panel. Any appointment
23 by the administrator shall be subject to challenge by any party
24 for cause. A request to strike an arbitrator for cause shall be
25 determined by the administrator. The parties shall not be
26 restricted to the arbitration panel candidates submitted for
27 consideration; but, if all parties mutually agree upon an
28 arbitration panelist within a designated category, the panelist
29 shall be invited to serve.

30 (d) The attorney and health care provider members of each

1 arbitration panel shall be or have been practicing members of
2 their respective professions.

3 (e) Arbitration panel members shall be paid on a per diem or
4 salary basis as fixed by the Executive Board plus actual and
5 necessary expenses incurred in the performance of their official
6 duties. The administrator shall provide for all other necessary
7 expenses of the arbitration panels.

8 (f) No member shall participate in a case in which he may
9 have an interest.]

10 (a) The administrator shall establish and maintain a pool of
11 full and part-time panel members from which he shall select
12 arbitration panels to hear claims made under this act.
13 Appointments to the pool of panel members shall be made by the
14 administrator with due consideration given to persons
15 recommended by appropriate recognized professional or lay
16 organizations.

17 (b) Each arbitration panel selected by the administrator
18 shall be composed of three members, including one attorney, who
19 shall be designated as chairperson and who shall determine
20 questions of law, one health care provider and one lay person
21 who is neither a health care provider nor an attorney. The
22 administrator may select a hospital administrator, podiatrist or
23 osteopathic physician or surgeon as the health care provider
24 panel member where the claim involves a member of one of those
25 classes of health care providers.

26 (c) Any arbitration panel member selected by the
27 administrator shall be subject to challenge for cause by any
28 party. All challenges for cause shall be determined by the
29 administrator. EACH PARTY SHALL ALSO BE ENTITLED TO ONE
30 PEREMPTORY CHALLENGE.

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1 (d) The parties shall not be restricted to arbitration
2 panels drawn from the pool of full and part-time panel members.
3 If all parties mutually agree upon an arbitration panelist or
4 panelists, the panelist or panelists shall be invited to serve
5 by the administrator. A panel mutually agreed upon by the
6 parties shall be composed of three members: one attorney, one
7 health care provider and one lay person.

8 (e) The attorney members of the arbitration panel pool shall
9 be admitted to practice before the Supreme Court of the
10 Commonwealth. The health care provider members of the
11 arbitration panel pool who are subject to licensure shall be
12 licensed by the Commonwealth.

13 (f) Arbitration panel members shall be paid at a daily or
14 annual salary rate fixed by the Executive Board, plus actual and
15 necessary expenses incurred in the performance of their official
16 duties. The administrator shall provide for all other necessary
17 expenses of the arbitration panels.

18 (g) No member shall participate in a case in which he may
19 have an interest.

20 (h) The administrator's appointees to the pool of panel
21 members shall serve for a term of three years and may be
22 reappointed by the administrator in his discretion, after
23 consultation with appropriate recognized professional or lay
24 organizations.

25 Section 2. This act shall take effect in 60 days.