

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 846

Session of  
1979

INTRODUCED BY HANKINS AND HAGER, JUNE 20, 1979

REFERRED TO INSURANCE, JUNE 20, 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.

30 (d) The parties shall not be restricted to arbitration

panels drawn from the pool of full and part-time panel members.  
If all parties mutually agree upon an arbitration panelist or  
panelists, the panelist or panelists shall be invited to serve  
by the administrator. A panel mutually agreed upon by the  
parties shall be composed of three members: one attorney, one  
health care provider and one lay person.

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

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

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

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

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