

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1831 Session of  
2005

INTRODUCED BY REICHLEY, ARMSTRONG, BENNINGHOFF, BOYD, CAPPELLI,  
CLYMER, CRAHALLA, DALLY, GODSHALL, KAUFFMAN, MUSTIO, REED,  
ROSS, SATHER, SCAVELLO, SCHRODER, E. Z. TAYLOR AND TURZAI,  
JULY 1, 2005

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JULY 1, 2005

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

1 shall submit the case to mandatory arbitration under the  
2 authority of the court of common pleas of the relevant  
3 jurisdiction and venue. The arbitration panel shall consist of  
4 three persons, selected randomly by the president judge. One of  
5 the three shall be an attorney who practices law in the  
6 jurisdiction of the court; one shall be a medical professional  
7 who has a primary residence or practice of medicine in the  
8 jurisdiction; and one shall be a senior judge from the  
9 jurisdiction, or, if no such senior judge is available, shall be  
10 a senior judge appointed by the Chief Justice of the Supreme  
11 Court of Pennsylvania. Awards at arbitration shall be limited to  
12 economic damages, reasonable attorney fees and not more than  
13 \$250,000 for noneconomic damages per plaintiff.

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

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

28 (d) Jury trial.--Arbitration is an alternative to trial but  
29 does not supersede or eliminate the right of a party to present  
30 its case at trial. The decision of an arbitration panel, as well

1 as the inability of an arbitration panel to reach a decision,  
2 shall be introduced at trial either by the testimony of one of  
3 the arbitrators or by stipulation of the parties. Noneconomic  
4 damages at trial shall not be limited. If the trial is held  
5 before a jury, the court shall instruct the jury that  
6 noneconomic damages are limited to \$250,000 before an  
7 arbitration panel but are unlimited at trial.

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

10       Section 3. This act shall take effect immediately.