

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-1121)
108TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B " to H.P. 1964, L.D. 2051, Bill,
"AN ACT to Lower the Cost of Medical Malpractice Arbitration."

Amend the Bill by striking out all of sections 1 and 2

Further amend the Bill by striking out all of section 4
and inserting in its place the following:

'Sec. 4. 24 MRSA §2705, as enacted by PL 1977, c. 492,
§3, is repealed and the following enacted in its place:

§2705. Arbitrators

1. Panel of arbitrators; membership; selection. An arbitration under this chapter shall be heard by a panel of 3 arbitrators. Within 5 days of the commencement of arbitration proceedings, the patient shall select one arbitrator and the health care provider or physician, or both, shall select one arbitrator. The parties shall immediately thereafter notify each other in writing of the name and address of the person so selected. The 2 arbitrators so selected and named shall, within 10 days from the request, agree upon and select and name a neutral arbitrator. If either party shall not select its arbitrator or if the 2 arbitrators shall fail to agree upon, select and name a neutral arbitrator within that 10 days, either party may request the American Arbitration Association to assist in selection of or to select the neutral arbitrator. As soon as possible after receipt of that request, the neutral arbitrator shall be selected in accordance with the provisions of subsection 2 and the

rules and procedures prescribed by the American Arbitration Association for making that selection.

2. Neutral arbitrator; method of selection. If the American Arbitration Association is requested to assist in selection of or to select a neutral arbitrator, the following procedure shall apply.

A. The association shall send simultaneously to each party an identical list of 5 neutral arbitrator candidates, together with a brief biographical statement on each candidate. A party may strike from the list any name which is unacceptable and shall number the remaining names in order of preference and return the list to the association. When the lists are returned, they shall be compared by the association and the first mutually agreeable candidate shall be invited to serve.

B. If no mutually agreed upon neutral arbitrator is selected, then a (second) list shall be sent in the same manner.

C. If no mutually agreed upon neutral arbitrator is selected from the 2nd list, then, under the applicable rules and procedures of the association, the association shall appoint a neutral arbitrator. The appointment by the association shall be subject to challenge by any party for cause. The challenge may allege facts to establish that unusual community or professional pressures will unreasonably influence the objectivity of the neutral arbitrator. A request to strike the arbitrator for cause shall be determined by the regional director or comparable officer of the association.

D. If the appointment is struck for cause, the association shall appoint another neutral arbitrator in the same manner, until an appointment stands.

3. Agreements of parties concerning arbitrators. Notwithstanding subsections 1 and 2, the parties may agree upon arbitrators or any method of selecting arbitrators or the number of arbitrators, provided the agreement is made after the commencement of arbitration proceedings.'

Further amend the Bill by striking out all of sections 5 to 12.

Further amend the Bill by renumbering the sections to read consecutively.

Statement of Fact

This amendment retains the present statutory scheme of a panel of arbitrators in medical malpractice arbitrations. It also establishes specific procedures for choosing the neutral arbitrator. The amendment retains the provision in the bill that allows the use of District Court space for those arbitrations.

Reported by Report B from the Committee on Judiciary.

Reproduced and distributed under the direction of the Clerk of the House.
3/6/78

(Filing No. H-1121)