

MAINE STATE LEGISLATURE

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L.D. 2051

STATE OF MAINE (Filing No. H-1122)
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
SECOND REGULAR SESSION

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

Amend the bill by striking out all of sections 1 and 2.

Further amend the bill by renumbering section 3 to be
section 1.

Further amend the bill by striking out section 4 and in-
serting in its place the following:

'Sec. 2. 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is repealed and the following enacted in its place: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; qualifications. An arbitration
under this chapter shall be heard by a panel of 3 neutral arbi-
trators. One shall be an attorney who shall be the chairperson
and shall have jurisdiction over prehearing procedures; one shall
be a physician, preferably but not necessarily from the respon-
dent's medical specialty; and the 3rd shall be a person who is
neither a doctor, lawyer or representative of a hospital or in-
surance company. Where the arbitration involves a hospital only,
a hospital administrator may be substituted for a physician.

2. Selection of arbitrators. The arbitrators shall be
selected by the patient and health care provider or physician, or
both, in the following manner.

A. The association shall send simultaneously to each party an identical list of 5 neutral arbitrator candidates in each of the 3 categories, 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 in each category shall be invited to serve.

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

C. If a complete panel is not selected by mutual agreement of the parties, then, the association shall send a 3rd list in the categories in which mutual agreement by the parties was not reached, to each party. Beginning with the physician or health care provider and alternating between the parties, one party shall strike one name from each list and return the list to the association. The association shall then send the list, including the struck out names, to the other party, who shall strike out one name. When only one name remains on the list, that person shall be appointed as the arbitrator in the category of the list.

3. Administration. The American Arbitration Association shall not directly charge the claimant for its administration under this chapter. The administrative expense of the association shall be \$200 per party, per case, or as may be agreed to by the parties and the association.

4. Agreements of parties concerning arbitrators. Notwithstanding the other provisions of this section, 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 through 12.

Statement of Fact

This amendment provides that the panel of arbitrators in medical malpractice arbitrations be a panel that is expert in specific fields and is neutral. The amendment also establishes a specific procedure for choosing the arbitrators, and retains the provision in the bill that allows the use of District Court space for these arbitrations.

Reported by Report C from the Committee on Judiciary.

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

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