



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/5/2004, by Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

710 ILCS 15/8	from Ch. 10, par. 208
710 ILCS 15/9	from Ch. 10, par. 209

Amends the Health Care Arbitration Act. Makes changes to the process by which a health care arbitration agreement may be cancelled by any signatory. Removes language requiring the re-affirmation of the health care arbitration agreement during the discharge planning process. Provides that no health care arbitration agreement shall be valid after 10 (instead of 2) years from the date of its execution.

LRB093 20601 LCB 46425 b

1 AN ACT concerning arbitration.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Health Care Arbitration Act is amended by
5 changing Sections 8 and 9 as follows:

6 (710 ILCS 15/8) (from Ch. 10, par. 208)

7 Sec. 8. Conditions. Every health care arbitration
8 agreement shall be subject to the following conditions:

9 (a) The agreement is not a condition to the rendering of
10 health care services by any party and the agreement has been
11 executed by the recipient of health care services at the
12 inception of or during the term of provision of services for a
13 specific cause by either a health care provider or a hospital;
14 and

15 (b) The agreement is a separate instrument complete in
16 itself and not a part of any other contract or instrument; and

17 (c) The agreement may not limit, impair, or waive any
18 substantive rights or defenses of any party, including the
19 statute of limitations; and

20 (d) The agreement shall not limit, impair, or waive the
21 procedural rights to be heard, to present material evidence, to
22 cross-examine witnesses, and to be represented by an attorney,
23 or other procedural rights of due process of any party.

24 ~~(e) As a part of the discharge planning process the patient~~
25 ~~or, if appropriate, members of his family must be given a copy~~
26 ~~of the health care arbitration agreement previously executed by~~
27 ~~or for the patient and shall re-affirm it. Failure to comply~~
28 ~~with this provision during the discharge planning process shall~~
29 ~~void the health care arbitration agreement.~~

30 (Source: P.A. 80-1012.)

31 (710 ILCS 15/9) (from Ch. 10, par. 209)

1 Sec. 9. Mandatory Provisions.

2 (a) Every health care arbitration agreement shall be
3 clearly captioned "Health Care Arbitration Agreement".

4 (b) Every health care arbitration agreement in relation to
5 health care services rendered during hospitalization shall
6 specify the date of commencement of hospitalization. Every
7 health care arbitration agreement in relation to health care
8 services not rendered during hospitalization shall state the
9 specific cause for which the services are provided.

10 (c) Every health care arbitration agreement may be
11 cancelled by any signatory (1) ~~within 60 days of its execution~~
12 ~~or~~ within 60 days of the date of the patient's discharge from
13 the hospital, or last date of treatment, whichever is later, as
14 to an agreement in relation to health care services rendered
15 during hospitalization, ~~provided, that if executed other than~~
16 ~~at the time of discharge of the patient from the hospital, the~~
17 ~~health care arbitration agreement be reaffirmed at the time of~~
18 ~~the discharge planning process in the same manner as provided~~
19 ~~for in the execution of the original agreement;~~ or (2) within
20 60 days of the date of its execution, or the last date of
21 treatment by the health care provider, whichever is later, as
22 to an agreement in relation to health care services not
23 rendered during hospitalization. Provided, that no health care
24 arbitration agreement shall be valid after 10 ~~2~~ years from the
25 date of its execution. An employee of a hospital or health care
26 provider who is not a signatory to an agreement may cancel such
27 agreement as to himself until 30 days following his
28 notification that he is a party to a dispute or issue on which
29 arbitration has been demanded pursuant to such agreement. If
30 any person executing a health care arbitration agreement dies
31 before the period of cancellation as outlined above, the
32 personal representative of the decedent shall have the right to
33 cancel the health care arbitration agreement within 60 days of
34 the date of his appointment as the legal representative of the
35 decedent's estate. ~~Provided, that if no legal representative is~~
36 ~~appointed within 6 months of the death of said decedent the~~

1 ~~next of kin of such decedent shall have the right to cancel the~~
2 ~~health care arbitration agreement within 8 months from the date~~
3 ~~of death.~~

4 (d) Every health care arbitration agreement shall contain
5 immediately above the signature lines, in upper case type in
6 printed letters of at least 3/16 inch height, a caption and
7 paragraphs as follows:

8 "AGREEMENT TO ARBITRATE HEALTH CARE

9 NEGLIGENCE CLAIMS

10 NOTICE TO PATIENT

11 YOU CANNOT BE REQUIRED TO SIGN THIS AGREEMENT IN ORDER TO
12 RECEIVE TREATMENT. BY SIGNING THIS AGREEMENT, YOUR RIGHT TO
13 TRIAL BY A JURY OR A JUDGE IN A COURT WILL BE BARRED AS TO
14 ANY DISPUTE RELATING TO INJURIES THAT MAY RESULT FROM
15 NEGLIGENCE DURING YOUR TREATMENT OR CARE, AND WILL BE
16 REPLACED BY AN ARBITRATION PROCEDURE.

17 THIS AGREEMENT MAY BE CANCELLED WITHIN 60 DAYS ~~OF SIGNING~~
18 ~~OR 60 DAYS~~ AFTER YOUR HOSPITAL DISCHARGE OR 60 DAYS AFTER
19 YOUR LAST HEALTH CARE SERVICE ~~MEDICAL TREATMENT~~ IN RELATION
20 TO HEALTH CARE SERVICES NOT RENDERED DURING
21 HOSPITALIZATION.

22 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT
23 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF
24 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS
25 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE
26 DECISION OF THE ARBITRATION PANEL."

27 (e) an executed copy of the AGREEMENT TO ARBITRATE HEALTH
28 CARE CLAIMS ~~and any reaffirmation of that agreement as required~~
29 ~~by this Act~~ shall be given to the patient during the time of
30 the discharge planning process or at the time of discharge
31 after last date of treatment.

32 (Source: P.A. 91-156, eff. 1-1-00.)