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LEGISLATIVE ACTION

Senate

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House

The Committee on Health Regulation (Sobel) recommended the following:

Senate Amendment to Amendment (192314) (with title amendment)

Delete lines 39 - 108
and insert:

(3) A pre-dispute agreement or post-dispute agreement must provide an opportunity to select the arbitrators by mutual agreement of the consumer and the provider after the arbitration has been initiated. The pre-dispute agreement and the post-dispute agreement may not restrict the panel from which the arbitrator is selected. The court shall appoint one or more arbitrators who are acceptable to the consumer and the provider



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13 if the consumer and the provider are unable to reach an
14 agreement selecting the arbitrator.

15 (4) (a) Each pre-dispute agreement must be explained in
16 detail to the consumer by the provider.

17 (b) The pre-dispute agreement must:

18 1. Include the following provision in the arbitration
19 agreement:

20
21 It is understood that any dispute relating to
22 negligence or problems with care, that is as to
23 whether any services that are subject to this
24 agreement were unnecessary or unauthorized or were
25 improperly, negligently, or incompetently rendered,
26 will be determined by submission to arbitration as
27 provided by the law of this state, and not by a
28 lawsuit or resort to court process except as allowed
29 by the law of this state for judicial review of
30 arbitration agreements. Both parties to this contract,
31 by entering into it, are foregoing their
32 constitutional right to have the dispute decided in a
33 court of law before a jury, and instead are accepting
34 the use of arbitration. The consumer has the right to
35 seek legal counsel concerning this agreement.

36
37 2. Be in a separate document apart from other documents
38 provided to the consumer by the provider and be clearly and
39 conspicuously identified as an arbitration agreement.

40 3. Include the signature of an individual who has witnessed
41 the provider's explanation of the arbitration agreement to the



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42 consumer.

43 4. Include, immediately before the signature line provided
44 for the consumer, the following statement in at least 16-point
45 bold red type:

46
47 NOTICE: BY SIGNING THIS ARBITRATION AGREEMENT, YOU ARE
48 AGREEING TO HAVE ANY DISPUTE DECIDED BY A NEUTRAL
49 ARBITRATOR AND YOU ARE GIVING UP YOUR CONSTITUTIONAL
50 RIGHT TO A JURY OR COURT TRIAL.

51
52 YOU HAVE THE RIGHT TO CONSULT WITH AN ATTORNEY
53 REGARDING THIS AGREEMENT.

54
55 (d) The provider must give a copy of the pre-dispute
56 agreement to the consumer at the time it is signed by the
57 consumer and representative of the provider.

58 (e) A provider may not submit the pre-dispute agreement to
59 a consumer for signature if the consumer's medical condition
60 requires emergency services and care as defined by s.

61
62
63 ===== T I T L E A M E N D M E N T =====

64 And the title is amended as follows:

65 Delete lines 113 - 115

66 and insert:

67 Delete lines 11 - 34

68 and insert:

69 arbitration; requiring each arbitration agreement
70 to include a provision for selecting arbitrators by



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71 mutual agreement of the patient or nursing home
72 resident and the health care provider; requiring the
73 court to appoint arbitrators who are acceptable to
74 both parties if the parties are unable to reach an
75 agreement for selecting the arbitrators; requiring the
76 provider to explain the pre-dispute agreement in
77 detail to the consumer; requiring each pre-dispute
78 agreement and post-dispute agreement to contain
79 certain specified provisions; requiring that the
80 provider give a copy of the pre-dispute agreement to
81 the patient or nursing home resident; prohibiting a
82 health care
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