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LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Delete lines 111 - 183
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 if the consumer and the provider are unable to reach an



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13 agreement selecting the arbitrator.

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

16 (b) The pre-dispute agreement must:

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

19
20 It is understood that any dispute relating to
21 negligence or problems with care, that is as to
22 whether any services that are subject to this
23 agreement were unnecessary or unauthorized or were
24 improperly, negligently, or incompetently rendered,
25 will be determined by submission to arbitration as
26 provided by the law of this state, and not by a
27 lawsuit or resort to court process except as allowed
28 by the law of this state for judicial review of
29 arbitration agreements. Both parties to this contract,
30 by entering into it, are foregoing their
31 constitutional right to have the dispute decided in a
32 court of law before a jury, and instead are accepting
33 the use of arbitration. The consumer has the right to
34 seek legal counsel concerning this agreement.

35
36 2. Be in a separate document apart from other documents
37 provided to the consumer by the provider and be clearly and
38 conspicuously identified as an arbitration agreement.

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



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

45
46 NOTICE: BY SIGNING THIS ARBITRATION AGREEMENT, YOU ARE
47 AGREEING TO HAVE ANY DISPUTE DECIDED BY A NEUTRAL
48 ARBITRATOR AND YOU ARE GIVING UP YOUR CONSTITUTIONAL
49 RIGHT TO A JURY OR COURT TRIAL.

50
51 YOU HAVE THE RIGHT TO CONSULT WITH AN ATTORNEY
52 REGARDING THIS AGREEMENT.

53
54 (d) The provider must give a copy of the pre-dispute
55 agreement to the consumer at the time it is signed by the
56 consumer and representative of the provider.

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

60
61
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:

64 Delete lines 11 - 34

65 and insert:

66 arbitration; requiring each arbitration agreement
67 to include a provision for selecting arbitrators by
68 mutual agreement of the patient or nursing home
69 resident and the health care provider; requiring the
70 court to appoint arbitrators who are acceptable to



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