



Client Alert



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Arbitration: Saving Money for Hospitals - The New Tool for Malpractice Defense

Introduction

A growing number of nationally-recognized health systems are utilizing arbitration programs to reduce their liability exposure and associated costs. Recently, with several components of Georgia's tort reform having been invalidated by the courts (including the recent overturning of the cap on damages), many Georgia hospitals are concerned that they will see an increase in lawsuits and a return of higher verdicts, higher settlements and, of course, higher premiums. Arbitration may be the solution.

Arbitration and Its Benefits for Hospitals

Arbitration is a streamlined process for resolving disputes outside the courts. The parties present their dispute to one or more persons (the arbitrators), who issue a decision that is legally binding for both sides, with only limited opportunities for appeal. Some of the key benefits include the following:

- Arbitration is less expensive than litigation
- Arbitration awards are, on average, less than in litigation
- Arbitration offers much faster resolution than litigation
- Arbitration hearings are much shorter than trials
- Arbitration parties can select arbitrators with expertise in the area
- The arbitration process and the records thereof are confidential
- Arbitration allows greater controls on discovery

Saving Money—The Proof Is in the Empirical Data

A recent national study concluded that arbitration awards are approximately 35 percent lower than recoveries in the court systems. Moreover, attorney's fees for defending arbitration actions average about 41 percent less than in the courts. The federal government's General Accounting Office conducted a separate study and found that arbitration hearings typically require only two to four days, compared with several weeks for court trials.

These efficiencies equate to significantly lower defense costs and less disruption of hospital operations. Staff members require less time away from patient care, with many arbitrators allowing testimony by videoconferencing and pre-recorded testimony. Implementation costs are low, and the return on investment can reach several multiples.

Our Attorneys Can Help

For more than 10 years, the attorneys in Arnall Golden Gregory LLP's nationally-recognized Healthcare Practice Group have been establishing and enforcing comprehensive arbitration programs for healthcare providers. We can help by:

- developing and assisting your organization to implement the necessary agreements, policies and procedures to fit your hospital organization;
- training your staff; and
- helping enforce arbitration agreements when disputes arise.

Beyond malpractice defense, arbitration can be equally beneficial for employment relationships and hospital/vendor relationships. Ensuring that disputes involving complex reimbursement or technical issues are resolved by professionals with expertise in the area represents a major benefit for vendor contracts.

Where to Start

See the data for yourself by looking at the following resources.

- [The Annual Report of the Office of the Independent Administrator for 2009 Regarding the Arbitration System between Kaiser Foundation Health Plan and Its Affiliated Groups of Physicians and Hospitals and Its Members](#)
- [The American Healthcare Association: Special Study on Arbitration in the Long Term Care Industry](#)
- [Alternative Dispute Resolution in Healthcare: A Prescription for Increasing Disclosure and Improving-Patient Safety](#)

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