

1975 Assembly Bill 53

Date published: **August 18, 1975**

CHAPTER 43, Laws of 1975

AN ACT to renumber and amend 298.04; and to create 298.04 (2) of the statutes, relating to arbitration of medical malpractice claims.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 298.04 of the statutes is renumbered 298.04 (1) and amended to read:

298.04 Arbitrators, how chosen. (1) If, in the agreement, provision ~~be~~ is made for a method of naming or appointing an arbitrator or arbitrators or an umpire such method shall be followed; but if no method ~~be~~ is provided therein, or if a method ~~be~~ is provided and any party thereto ~~shall fail~~ fails to avail himself of such method, or if for any other reason there ~~shall be~~ is a lapse in the naming of an arbitrator or arbitrators or an umpire, or in filling a vacancy, then upon the application of either party to the controversy the court aforesaid or the court in and for the county in which the arbitration is to be held shall designate and appoint an arbitrator, arbitrators or umpire, as the case or sub. (2) may require, who shall act under the ~~said~~ agreement with the same force and effect as if he or they had been specifically named therein; and, except as provided in sub. (2) or unless otherwise provided in the agreement, the arbitration shall be by a single arbitrator.

SECTION 2. 298.04 (2) of the statutes is created to read:

298.04 (2) A panel of arbitrators, consisting of 3 persons shall be appointed to arbitrate actions to recover damages for injuries to the person arising from any treatment or operation performed by or any omission by any person who is required to be licensed, registered or certified to treat the sick as defined in s. 445.01 (1) (a).

(a) One arbitrator shall be appointed by the court from a list of attorneys with trial experience. The list shall be prepared and periodically revised by the state bar of Wisconsin.

(b) One arbitrator shall be appointed by the court from lists of health professionals prepared and periodically revised by the appropriate statewide organizations of health professionals. The lists shall designate the specialty, if any, of each health professional listed. The organizations of health professionals shall assist the court to determine the appropriate specialty of the arbitrator for each action to be arbitrated.

(c) One arbitrator who is not an attorney or a health professional shall be appointed by the court.

(d) Any person appointed to the arbitration panel may disqualify himself or be disqualified by the court if any reason exists which requires his disqualification. A substitute member of the arbitration panel shall be chosen in the same manner as the person disqualified was chosen.

(e) No member of the panel may participate in any subsequent court proceeding on the action arbitrated as either a counsel or a witness unless the court deems his testimony necessary for hearings under s. 298.10 or 298.11.

SECTION 3. **Effective date.** This act shall take effect on the 181st day after publication.
