

SENATE BILL No. 38

February 5, 1991, Introduced by Senators N. SMITH and
POSTHUMUS and referred to the Committee on Commerce.

A bill to amend sections 3051 and 3057 of Act No. 218 of the
Public Acts of 1956, entitled as amended
"The insurance code of 1956,"
being sections 500.3051 and 500.3057 of the Michigan Compiled
Laws; to add sections 3455 and 3617; and to repeal certain parts
of the act on specific dates.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3051 and 3057 of Act No. 218 of the
2 Public Acts of 1956, being sections 500.3051 and 500.3057 of the
3 Michigan Compiled Laws, are amended and sections 3455 and 3617
4 are added to read as follows:

5 Sec. 3051. As used in this chapter:

6 (a) "Advisory committee" means the arbitration advisory
7 committee.

1 (b) "Health care office" means a facility in which medical
2 care is provided by a health care provider but which is not
3 separately licensed as a health care facility. Health care
4 office may also include, upon the designation by the
5 ~~commissioner~~ DIRECTOR OF PUBLIC HEALTH, a health care facility
6 licensed as such, ~~which~~ THAT is primarily designed for delivery
7 of the type of medical care that is customarily provided in the
8 office of a health care provider. The ~~commissioner~~ DIRECTOR OF
9 PUBLIC HEALTH may by rule designate such facilities or character
10 of treatment within such a facility as a health care office.

11 (c) "Health care provider" means a person, partnership, or
12 corporation lawfully engaged in the practice of medicine, sur-
13 gery, dentistry, podiatry, optometry, chiropractic, or nursing;
14 or a person dispensing drugs or medicine.

15 (d) "Hospital" means a person, partnership, or corporation
16 lawfully engaged in the operation of a hospital, clinic, health
17 maintenance organization, or sanitarium.

18 (e) "Hospital personnel" means all employees of a hospital,
19 including salaried health care providers, residents, interns, or
20 nurses.

21 (f) "Independent hospital staff" means all nonemployee
22 health care providers with staff privileges or who render health
23 care in a hospital under any formal or informal agreement with
24 the hospital for occasional or regular use of the facility.
25 Independent hospital staff also includes any partnership or cor-
26 poration rendering services in or under contract with a
27 hospital.

1 (g) "Malpractice insurer" means any company ~~authorized to~~
2 ~~do business in this state or doing business in this state and~~
3 ~~offering~~ PROVIDING policies of professional liability insurance
4 to health care providers or hospitals. Malpractice insurer also
5 includes, BUT IS NOT LIMITED TO, any SURPLUS LINES INSURER,
6 insurance trust, joint underwriting association, mutual company,
7 reciprocal or any other entity or person offering such liability
8 coverage, including any state insurance fund.

9 Sec. 3057. (1) There is created within the bureau an arbi-
10 tration administration fund which shall be annually funded by
11 order of the commissioner in such amount as shall be sufficient
12 to defray the actual expenses of the advisory committee and the
13 administrative expense of the projected number of arbitration
14 proceedings for that year.

15 (2) The administrative expense shall include the amount
16 which would otherwise be payable by a claimant as a party to a
17 proceeding together with the costs of arbitrators.

18 (3) The administrative expense may also include a provision
19 for a consulting contract with the American arbitration associa-
20 tion or similar agency for a limited and reasonable amount of
21 technical and organizational advice and consultation in the
22 implementation of this chapter.

23 (4) ~~For the privilege of doing business in this state~~
24 ~~every~~ EACH MALPRACTICE insurer ~~offering malpractice insurance~~
25 ~~to a hospital or health care provider in this state~~ shall remit
26 to the arbitration administration fund such amount as designated
27 by the commissioner pursuant to this section. The commissioner

1 shall allocate a projected cost among malpractice insurers on a
2 pro rata basis according to premium volume and such other rele-
3 vant factors as the commissioner may designate by rule.

4 SEC. 3455. (1) A POLICY OF DISABILITY INSURANCE PROVIDING
5 FOR HOSPITAL, MEDICAL, SURGICAL, AND SICK-CARE BENEFITS OR A
6 RIDER OR ADDENDUM TO SUCH A POLICY THAT CONTAINS A PROVISION FOR
7 ARBITRATION OF A DISPUTE AS TO THE MALPRACTICE OF A HEALTH PRO-
8 FESSIONAL OR HEALTH CARE FACILITY UTILIZED BY AN INSURED SHALL
9 INCLUDE A STATEMENT OF THAT FACT IN 12-POINT BOLDFACE TYPE.

10 (2) EACH INSURED AND EACH COMPETENT ADULT DEPENDENT OF THE
11 THE INSURED, AT THE TIME THE POLICY DESCRIBED IN SUBSECTION (1)
12 IS ENTERED INTO OR AT THE TIME A RIDER OR ADDENDUM CONTAINING AN
13 ARBITRATION PROVISION IS ADDED TO THE POLICY, SHALL INDICATE ON A
14 POLICY, CONTRACT, OR ENROLLMENT CARD WHETHER HE OR SHE REJECTS OR
15 ACCEPTS THE ARBITRATION PROVISION BY SIGNING 1 OF THE STATEMENTS
16 DESCRIBED IN SUBSECTION (3) (A). FAILURE OF AN INSURED OR COMPE-
17 TENT ADULT DEPENDENT OF AN INSURED TO SIGN 1 OF THE STATEMENTS
18 DESCRIBED IN SUBSECTION (3) (A) DOES NOT INDICATE ACCEPTANCE OF
19 THE ARBITRATION PROVISION.

20 (3) SUBJECT TO SUBSECTION (7), THE POLICY OR RIDER OR ADDEN-
21 DUM CONTAINING AN ARBITRATION PROVISION ALSO SHALL PROVIDE THAT
22 THE INSURED AND EACH COMPETENT ADULT DEPENDENT OF THE INSURED MAY
23 REVOKE THE AGREEMENT TO ARBITRATE AS IT APPLIES TO THE INSURED OR
24 COMPETENT ADULT DEPENDENT WITHIN 60 DAYS AFTER THE EFFECTIVE DATE
25 OF THE ARBITRATION PROVISION SPECIFIED IN THE POLICY OR 60 DAYS
26 AFTER THE EFFECTIVE DATE OF A RIDER OR ADDENDUM ADDING AN
27 ARBITRATION PROVISION TO THE POLICY, WHICH DATE SHALL BE SET

1 FORTH IN THE CONTRACT, RIDER, OR ADDENDUM, AND THAT EXECUTION OF
2 THE AGREEMENT TO ARBITRATE IS NOT A PREREQUISITE TO HEALTH CARE
3 OR TREATMENT, AND SHALL INCLUDE A STATEMENT OF THOSE FACTS IN
4 12-POINT BOLDFACE TYPE. IN ADDITION, THE POLICY OR RIDER OR
5 ADDENDUM CONTAINING AN ARBITRATION PROVISION SHALL PROVIDE THAT
6 AN INSURED AND EACH COMPETENT ADULT DEPENDENT OF THE INSURED MAY
7 REVOKE THE AGREEMENT TO ARBITRATE, AS IT APPLIES TO THAT INSURED
8 OR ADULT DEPENDENT, ON ANY ANNIVERSARY OF THE EFFECTIVE DATE
9 SPECIFIED IN THE POLICY, RIDER, OR ADDENDUM OR WITHIN 10 DAYS
10 AFTER THE ANNIVERSARY DATE. THE RIGHT OF THE INSURED OR COMPE-
11 TENT ADULT DEPENDENT TO REVOKE THE AGREEMENT TO ARBITRATE SHALL
12 BE EXERCISED ONLY AS PROVIDED IN SUBSECTION (8). THE INSURER
13 SHALL ALSO DEVELOP AND IMPLEMENT A PROCEDURE FOR NOTIFYING POTEN-
14 TIAL INSUREDS AND COMPETENT ADULT DEPENDENTS OF THE PROVISION FOR
15 ARBITRATION. THE PROCEDURE SHALL PROVIDE, AT A MINIMUM, BOTH OF
16 THE FOLLOWING:

17 (A) THAT POLICIES USED BY THE INSURER CONTAIN, ADJACENT TO
18 THE SIGNATURE LINE OR IN ANOTHER CONSPICUOUS PLACE AND IN
19 12-POINT BOLDFACE TYPE, A STATEMENT DESCRIBING THE ARBITRATION
20 REQUIREMENT; A STATEMENT, WITH A SIGNATURE LINE WHERE THE PERSON
21 OR COMPETENT ADULT DEPENDENT MAY SIGN, STATING THAT THE PERSON OR
22 COMPETENT ADULT DEPENDENT REJECTS THE ARBITRATION PROVISION, AND
23 A STATEMENT, WITH A SIGNATURE LINE WHERE THE PERSON OR COMPETENT
24 ADULT DEPENDENT MAY SIGN, STATING THAT THE PERSON OR COMPETENT
25 ADULT DEPENDENT ACCEPTS THE ARBITRATION PROVISION.

26 (B) THAT THE INSURER PROVIDE THE INSURED WITH AN
27 INFORMATIONAL BROCHURE THAT CLEARLY EXPLAINS THE ARBITRATION

1 AGREEMENT AND REVOCATION PROVISION AND IS APPROVED BY THE
2 COMMISSIONER. THE INFORMATIONAL BROCHURE SHALL BE PROVIDED TO AN
3 INSURED BEFORE THE INSURED ACCEPTS OR REJECTS THE ARBITRATION
4 PROVISION. THE INSURER SHALL PROVIDE ADDITIONAL BROCHURES UPON
5 REQUEST.

6 (4) ARBITRATION OF A DISPUTE BETWEEN AN INSURED OR A DEPENDENT
7 OF THE INSURED AND A HEALTH PROFESSIONAL OR HEALTH CARE
8 FACILITY AS TO THE MALPRACTICE OF THE HEALTH PROFESSIONAL OR
9 HEALTH CARE FACILITY SHALL BE CONDUCTED PURSUANT TO SECTIONS 5043
10 TO 5059 OF CHAPTER 50A OF THE REVISED JUDICATURE ACT OF 1961, ACT
11 NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS 600.5043 TO
12 600.5059 OF THE MICHIGAN COMPILED LAWS.

13 (5) IF A POLICY OF DISABILITY INSURANCE OR RIDER OR ADDENDUM
14 AS DESCRIBED IN SUBSECTION (1) INCLUDES AN ARBITRATION PROVISION
15 THAT APPLIES TO A MINOR OR INCOMPETENT ADULT DEPENDENT, THE ARBITRATION
16 PROVISION IS NOT SUBJECT TO DISAFFIRMANCE IF SIGNED OR
17 OTHERWISE AGREED TO BY THE MINOR'S OR INCOMPETENT ADULT
18 DEPENDENT'S PARENT OR GUARDIAN. THIS SUBSECTION DOES NOT PROHIBIT
19 AN INSURED WHO IS A PARENT OR GUARDIAN OF A MINOR OR INCOMPETENT
20 ADULT DEPENDENT FROM REJECTING OR REVOKING AN ARBITRATION
21 PROVISION CONTAINED IN A POLICY OF DISABILITY INSURANCE OR RIDER
22 OR ADDENDUM AS DESCRIBED IN SUBSECTION (1), AS PROVIDED IN THIS
23 SECTION.

24 (6) A POLICY OF DISABILITY INSURANCE OR RIDER OR ADDENDUM
25 THAT CONTAINS AN ARBITRATION PROVISION THAT IS IN COMPLIANCE WITH
26 SUBSECTIONS (1) AND (3) IS NOT A CONTRACT OF ADHESION OR
27 UNCONSCIONABLE OR OTHERWISE IMPROPER BECAUSE OF SUCH PROVISION.

1 SUBJECT TO SUBSECTION (2), THE ARBITRATION PROVISION APPLIES TO
2 ALL PERSONS COVERED UNDER THE POLICY, INCLUDING THEIR SPOUSES AND
3 CHILDREN, BOTH BORN AND IN UTERO, ALL INCOMPETENT ADULT DEPENDENT
4 DENTS OF THE INSURED, AND, IN THE CASE OF A MALPRACTICE ACTION
5 INVOLVING THE DEATH OF A PERSON COVERED UNDER THE POLICY, ALL
6 PERSONS TO WHOM THE PERSON COVERED UNDER THE POLICY BY LAW OWED A
7 DUTY OF SUPPORT AT THE TIME OF HIS OR HER DEATH.

8 (7) AN INSURER MAY OFFER ECONOMIC INCENTIVES IN CONSIDERATION
9 OF EITHER OR BOTH OF THE FOLLOWING:

10 (A) AN INSURED'S OR COMPETENT ADULT DEPENDENT'S ACCEPTANCE
11 OF AN ARBITRATION PROVISION.

12 (B) AN INSURED'S OR COMPETENT ADULT DEPENDENT'S AGREEMENT
13 NOT TO EXERCISE THE RIGHT TO REVOKE THE AGREEMENT TO ARBITRATE
14 CONTAINED IN THE POLICY.

15 (8) AN INSURED OR COMPETENT ADULT DEPENDENT OF THE INSURED
16 MAY REVOKE THE AGREEMENT TO ARBITRATE BY NOTIFYING THE INSURER IN
17 WRITING OF THE INSURED'S OR ADULT DEPENDENT'S INTENT TO REVOKE
18 THE ARBITRATION AGREEMENT. THE NOTICE SHALL INCLUDE, AT A MINIMUM,
19 THE INSURED'S OR ADULT DEPENDENT'S NAME, ADDRESS, AND POLICY
20 NUMBER AND A STATEMENT OF THE INSURED'S OR ADULT DEPENDENT'S
21 INTENT TO REVOKE THE ARBITRATION AGREEMENT. A REVOCATION IS
22 EFFECTIVE AS TO HEALTH CARE SERVICES RENDERED AFTER THE
23 REVOCATION. A RECEIPT FROM A LETTER SENT BY REGISTERED OR CERTIFIED
24 MAIL OR OTHER ACKNOWLEDGMENT OF THE REVOCATION FROM THE
25 INSURER IS PROOF OF AN INSURED'S OR COMPETENT ADULT DEPENDENT'S
26 REVOCATION UNDER THIS SUBSECTION.

1 (9) IF AN INSURED WHO HAS ACCEPTED AN ARBITRATION PROVISION
2 IN A POLICY UNDER SUBSECTION (2) SUBSEQUENTLY REJECTS AN
3 ARBITRATION PROVISION CONTAINED IN ANOTHER HEALTH CARE COVERAGE
4 OR BENEFIT PLAN UNDER WHICH THE INSURED IS COVERED AS A DEPENDENT,
5 THE INSURED CONTINUES TO BE BOUND UNDER THE ARBITRATION
6 PROVISION IN THE POLICY.

7 (10) IF A COMPETENT ADULT DEPENDENT WHO HAS ACCEPTED AN
8 ARBITRATION PROVISION IN A POLICY UNDER SUBSECTION (2) SUBSE-
9 QUENTLY REJECTS AN ARBITRATION PROVISION CONTAINED IN ANOTHER
10 HEALTH CARE COVERAGE OR BENEFIT PLAN UNDER WHICH THE COMPETENT
11 ADULT DEPENDENT IS ALSO COVERED AS A DEPENDENT, AND IF THE BENE-
12 FITS OF THE POLICY WOULD BE DETERMINED BEFORE THE BENEFITS OF THE
13 OTHER HEALTH CARE COVERAGE OR BENEFIT PLAN UNDER THE COORDINATION
14 OF BENEFITS ACT, ACT NO. 64 OF THE PUBLIC ACTS OF 1984, BEING
15 SECTIONS 550.251 TO 550.255 OF THE MICHIGAN COMPILED LAWS, THEN
16 THE COMPETENT ADULT DEPENDENT CONTINUES TO BE BOUND BY THE ARBI-
17 TRATION PROVISION IN THE POLICY.

18 (11) IF AN INSURED WHO IS A PARENT OR GUARDIAN OF A MINOR OR
19 INCOMPETENT ADULT DEPENDENT WHO IS ALSO COVERED AS A DEPENDENT
20 UNDER ANOTHER HEALTH CARE COVERAGE OR BENEFIT PLAN ACCEPTS AN
21 ARBITRATION PROVISION IN A POLICY UNDER SUBSECTION (2), AND IF
22 THE BENEFITS OF THE POLICY WOULD BE DETERMINED BEFORE THE BENE-
23 FITS OF THE OTHER HEALTH CARE COVERAGE OR BENEFIT PLAN UNDER ACT
24 NO. 64 OF THE PUBLIC ACTS OF 1984, THEN THE MINOR OR INCOMPETENT
25 ADULT DEPENDENT CONTINUES TO BE BOUND BY THE ARBITRATION PROVI-
26 SION IN THE POLICY, EVEN IF AN ARBITRATION PROVISION IN THE OTHER

1 HEALTH CARE COVERAGE OR BENEFIT PLAN IS REJECTED BY ANOTHER
2 PARENT OR GUARDIAN OF THE MINOR OR INCOMPETENT ADULT DEPENDENT.

3 (12) THE COMMISSIONER SHALL SUBMIT A WRITTEN REPORT TO THE
4 LEGISLATURE ON THE EFFECT OF ARBITRATION AGREEMENTS CONTAINED IN
5 POLICIES OF DISABILITY INSURANCE DESCRIBED IN SUBSECTION (1).
6 THE REPORT SHALL INCLUDE, BUT IS NOT LIMITED TO, COST SAVINGS
7 REALIZED BY INSURERS AS A RESULT OF INCLUDING ARBITRATION AGREE-
8 MENTS IN THE POLICIES OF DISABILITY INSURANCE. THE REPORT
9 REQUIRED UNDER THIS SUBSECTION SHALL BE SUBMITTED NOT LATER THAN
10 THE EXPIRATION OF 5 YEARS AFTER THE EFFECTIVE DATE OF THIS
11 SECTION. IF THE COMMISSIONER DETERMINES THAT INSURERS HAVE REAL-
12 IZED COST SAVINGS AS A RESULT OF INCLUDING ARBITRATION PROVISIONS
13 IN INSURANCE CONTRACTS AS DESCRIBED IN SUBSECTION (1), THE COM-
14 MISSIONER SHALL CONSIDER THE COST SAVINGS IN MAKING RATE DETERMI-
15 NATIONS FOR SUCH INSURERS.

16 (13) AS USED IN THIS SECTION:

17 (A) "ADULT" MEANS AN INDIVIDUAL WHO IS 18 YEARS OF AGE OR
18 OLDER.

19 (B) "HEALTH CARE FACILITY" MEANS A HEALTH FACILITY OR AGENCY
20 AS DEFINED IN SECTION 20106 OF THE PUBLIC HEALTH CODE, ACT
21 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.20106 OF
22 THE MICHIGAN COMPILED LAWS.

23 (C) "HEALTH PROFESSIONAL" MEANS A PERSON LICENSED, CERTI-
24 FIED, OR REGISTERED UNDER PARTS 161 TO 183 OF ACT NO. 368 OF THE
25 PUBLIC ACTS OF 1978, BEING SECTIONS 333.16101 TO 333.18311 OF THE
26 MICHIGAN COMPILED LAWS.

1 (D) "MALPRACTICE" MEANS A DISPUTE, CONTROVERSY, OR ISSUE
2 ARISING OUT OF OR RESULTING FROM INJURY TO OR THE DEATH OF, AN
3 INDIVIDUAL WHICH WAS CAUSED BY AN ERROR, OMISSION, OR NEGLIGENCE
4 IN THE PERFORMANCE OF SERVICES BY A HEALTH PROFESSIONAL, HEALTH
5 CARE FACILITY, OR THEIR AGENT OR BASED ON A CLAIMED PERFORMANCE
6 OF SUCH SERVICES WITHOUT CONSENT, IN BREACH OF WARRANTY, OR IN
7 VIOLATION OF CONTRACT.

8 (14) THIS SECTION IS REPEALED EFFECTIVE UPON THE EXPIRATION
9 OF 6 YEARS AFTER ITS EFFECTIVE DATE.

10 SEC. 3617. (1) A POLICY OF GROUP DISABILITY INSURANCE PRO-
11 VIDING FOR HOSPITAL, MEDICAL, SURGICAL, AND SICK-CARE BENEFITS OR
12 A RIDER OR ADDENDUM TO SUCH A POLICY THAT CONTAINS A PROVISION
13 FOR ARBITRATION OF A DISPUTE AS TO THE MALPRACTICE OF A HEALTH
14 PROFESSIONAL OR HEALTH CARE FACILITY UTILIZED BY AN INSURED SHALL
15 INCLUDE A CONSPICUOUS STATEMENT OF THAT FACT.

16 (2) EACH INSURED AND EACH COMPETENT ADULT DEPENDENT OF THE
17 INSURED, AT THE TIME THE POLICY DESCRIBED IN SUBSECTION (1) IS
18 ENTERED INTO OR AT THE TIME A RIDER OR ADDENDUM CONTAINING AN
19 ARBITRATION PROVISION IS ADDED TO POLICY, SHALL INDICATE ON A
20 POLICY, CONTRACT, OR ENROLLMENT CARD WHETHER HE OR SHE REJECTS OR
21 ACCEPTS THE ARBITRATION PROVISION BY SIGNING 1 OF THE STATEMENTS
22 DESCRIBED IN SUBSECTION (3)(A). FAILURE OF AN INSURED OR COMPE-
23 TENT ADULT DEPENDENT OF AN INSURED TO SIGN 1 OF THE STATEMENTS
24 DESCRIBED IN SUBSECTION (3)(A) DOES NOT INDICATE ACCEPTANCE OF
25 THE ARBITRATION PROVISION.

26 (3) SUBJECT TO SUBSECTION (7), THE POLICY OR RIDER OR
27 ADDENDUM CONTAINING AN ARBITRATION PROVISION ALSO SHALL PROVIDE

1 THAT AN INSURED AND EACH COMPETENT ADULT DEPENDENT OF THE INSURED
2 MAY REVOKE THE AGREEMENT TO ARBITRATE AS IT APPLIES TO THE
3 INSURED OR ADULT DEPENDENT WITHIN 60 DAYS AFTER THE EFFECTIVE
4 DATE OF THE ARBITRATION PROVISION SPECIFIED IN THE POLICY OR 60
5 DAYS AFTER THE EFFECTIVE DATE OF A RIDER OR ADDENDUM ADDING AN
6 ARBITRATION PROVISION TO THE POLICY, WHICH DATE SHALL BE SPECI-
7 FIED IN THE POLICY, RIDER, OR ADDENDUM AND THAT EXECUTION OF THE
8 AGREEMENT TO ARBITRATE IS NOT A PREREQUISITE TO HEALTH CARE OR
9 TREATMENT, AND SHALL INCLUDE A CONSPICUOUS STATEMENT OF THOSE
10 FACTS. IN ADDITION, THE POLICY AND A RIDER OR ADDENDUM TO THE
11 POLICY CONTAINING AN ARBITRATION PROVISION SHALL PROVIDE THAT AN
12 INSURED AND EACH COMPETENT ADULT DEPENDENT OF THE INSURED MAY
13 REVOKE THE AGREEMENT TO ARBITRATE, AS IT APPLIES TO THAT INSURED
14 OR COMPETENT ADULT DEPENDENT, ON ANY ANNIVERSARY OF THE EFFECTIVE
15 DATE OF THE POLICY, RIDER, OR ADDENDUM OR WITHIN 10 DAYS AFTER
16 THE ANNIVERSARY DATE. THE RIGHT OF THE INSURED OR COMPETENT
17 ADULT DEPENDENT TO REVOKE THE AGREEMENT TO ARBITRATE SHALL BE
18 EXERCISED ONLY AS PROVIDED IN SUBSECTION (8). THE INSURER SHALL
19 ALSO DEVELOP AND IMPLEMENT A PROCEDURE FOR NOTIFYING POTENTIAL
20 INSUREDS AND DEPENDENTS OF THE PROVISION FOR ARBITRATION. THE
21 PROCEDURE SHALL PROVIDE, AT A MINIMUM, BOTH OF THE FOLLOWING:
22 (A) THAT CONTRACTS USED BY THE INSURER CONTAIN, ADJACENT TO
23 THE SIGNATURE LINE OR IN ANOTHER CONSPICUOUS PLACE, A STATEMENT
24 DESCRIBING THE ARBITRATION REQUIREMENT, A STATEMENT, WITH A SIG-
25 NATURE LINE WHERE THE PERSON OR COMPETENT ADULT DEPENDENT MAY
26 SIGN, STATING THAT THE PERSON OR COMPETENT ADULT DEPENDENT
27 REJECTS THE ARBITRATION PROVISION, AND A STATEMENT, WITH A

1 SIGNATURE LINE WHERE THE PERSON OR COMPETENT ADULT DEPENDENT MAY
2 SIGN, STATING THAT THE PERSON OR COMPETENT ADULT DEPENDENT
3 ACCEPTS THE ARBITRATION PROVISION.

4 (B) THAT THE INSURER PROVIDE THE INSURED WITH AN INFORMA-
5 TIONAL BROCHURE THAT CLEARLY EXPLAINS THE ARBITRATION AGREEMENT
6 AND REVOCATION PROVISION AND IS APPROVED BY THE COMMISSIONER.
7 THE INFORMATIONAL BROCHURE SHALL BE PROVIDED TO AN INSURED BEFORE
8 THE INSURED ACCEPTS OR REJECTS THE ARBITRATION PROVISION. THE
9 INSURER SHALL PROVIDE ADDITIONAL BROCHURES UPON REQUEST.

10 (4) ARBITRATION OF A DISPUTE BETWEEN AN INSURED OR DEPENDENT
11 OF THE INSURED AND A HEALTH PROFESSIONAL OR HEALTH CARE FACILITY
12 AS TO THE MALPRACTICE OF THE HEALTH PROFESSIONAL OR HEALTH CARE
13 FACILITY SHALL BE CONDUCTED PURSUANT TO SECTIONS 5043 TO 5059 OF
14 CHAPTER 50A OF THE REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF
15 THE PUBLIC ACTS OF 1961, BEING SECTIONS 600.5043 TO 600.5059 OF
16 THE MICHIGAN COMPILED LAWS.

17 (5) IF A POLICY OF GROUP DISABILITY INSURANCE OR RIDER OR
18 ADDENDUM AS DESCRIBED IN SUBSECTION (1) INCLUDES AN ARBITRATION
19 PROVISION THAT APPLIES TO A MINOR OR INCOMPETENT ADULT DEPENDENT,
20 THE ARBITRATION PROVISION IS NOT SUBJECT TO DISAFFIRMANCE IF
21 SIGNED OR OTHERWISE AGREED TO BY THE MINOR'S OR INCOMPETENT ADULT
22 DEPENDENT'S PARENT OR GUARDIAN. THIS SUBSECTION DOES NOT PRO-
23 HIBIT AN INSURED WHO IS A PARENT OR GUARDIAN OF A MINOR OR INCOM-
24 PETENT ADULT DEPENDENT FROM REJECTING OR REVOKING AN ARBITRATION
25 PROVISION CONTAINED IN A POLICY OF DISABILITY INSURANCE OR RIDER
26 OR ADDENDUM AS DESCRIBED IN SUBSECTION (1), AS PROVIDED IN THIS
27 SECTION.

1 (6) A POLICY OF GROUP DISABILITY INSURANCE OR RIDER OR
2 ADDENDUM THAT CONTAINS AN ARBITRATION PROVISION THAT IS IN COM-
3 PLIANCE WITH SUBSECTIONS (1) AND (3) IS NOT A CONTRACT OF ADHE-
4 SION OR UNCONSCIONABLE OR OTHERWISE IMPROPER BECAUSE OF SUCH
5 PROVISION. SUBJECT TO SUBSECTION (2), THE ARBITRATION PROVISION
6 SHALL APPLY TO ALL PERSONS COVERED UNDER THE POLICY, INCLUDING
7 THEIR SPOUSES AND CHILDREN, BOTH BORN AND IN UTERO, ALL INCOMPE-
8 TENT ADULT DEPENDENTS OF THE INSURED, AND, IN THE CASE OF A MAL-
9 PRACTICE ACTION INVOLVING THE DEATH OF A PERSON COVERED UNDER THE
10 POLICY, ALL PERSONS TO WHOM THE PERSON COVERED UNDER THE POLICY
11 BY LAW OWED A DUTY OF SUPPORT AT THE TIME OF HIS OR HER DEATH.

12 (7) AN INSURER MAY OFFER ECONOMIC INCENTIVES IN CONSIDERA-
13 TION OF EITHER OR BOTH OF THE FOLLOWING:

14 (A) AN INSURED'S OR COMPETENT ADULT DEPENDENT'S ACCEPTANCE
15 OF THE ARBITRATION PROVISION.

16 (B) AN INSURED'S OR COMPETENT ADULT DEPENDENT'S AGREEMENT
17 NOT TO EXERCISE THE RIGHT TO REVOKE THE AGREEMENT TO ARBITRATE
18 CONTAINED IN THE POLICY.

19 (8) AN INSURED OR COMPETENT ADULT DEPENDENT OF THE INSURED
20 MAY REVOKE THE AGREEMENT TO ARBITRATE BY NOTIFYING THE INSURER IN
21 WRITING OF THE INSURED'S OR ADULT DEPENDENT'S INTENT TO REVOKE
22 THE ARBITRATION AGREEMENT. THE NOTICE SHALL INCLUDE, AT A MINI-
23 MUM, THE INSURED'S OR ADULT DEPENDENT'S NAME, ADDRESS, AND POLICY
24 NUMBER AND A STATEMENT OF THE INSURED'S OR ADULT DEPENDENT'S
25 INTENT TO REVOKE THE ARBITRATION AGREEMENT. A REVOCATION IS
26 EFFECTIVE AS TO HEALTH CARE SERVICES RENDERED AFTER THE
27 REVOCATION. A RECEIPT FROM A LETTER SENT BY REGISTERED OR

1 CERTIFIED MAIL OR OTHER ACKNOWLEDGMENT OF THE REVOCATION FROM THE
2 INSURER IS PROOF OF AN INSURED'S OR COMPETENT ADULT DEPENDENT'S
3 REVOCATION UNDER THIS SUBSECTION.

4 (9) IF AN INSURED WHO HAS ACCEPTED AN ARBITRATION PROVISION
5 IN A POLICY UNDER SUBSECTION (2) SUBSEQUENTLY REJECTS AN ARBITRA-
6 TION PROVISION CONTAINED IN ANOTHER HEALTH CARE COVERAGE OR BENE-
7 FIT PLAN UNDER WHICH THE INSURED IS COVERED AS A DEPENDENT, THE
8 INSURED CONTINUES TO BE BOUND UNDER THE ARBITRATION PROVISION IN
9 THE POLICY.

10 (10) IF A COMPETENT ADULT DEPENDENT WHO HAS ACCEPTED AN
11 ARBITRATION PROVISION IN A POLICY UNDER SUBSECTION (2) SUBSE-
12 QUENTLY REJECTS AN ARBITRATION PROVISION CONTAINED IN ANOTHER
13 HEALTH CARE COVERAGE OR BENEFIT PLAN UNDER WHICH THE COMPETENT
14 ADULT DEPENDENT IS ALSO COVERED AS A DEPENDENT, AND IF THE BENE-
15 FITS OF THE POLICY WOULD BE DETERMINED BEFORE THE BENEFITS OF THE
16 OTHER HEALTH CARE COVERAGE OR BENEFIT PLAN UNDER THE COORDINATION
17 OF BENEFITS ACT, ACT NO. 64 OF THE PUBLIC ACTS OF 1984, BEING
18 SECTIONS 550.251 TO 550.255 OF THE MICHIGAN COMPILED LAWS, THEN
19 THE COMPETENT ADULT DEPENDENT CONTINUES TO BE BOUND BY THE ARBI-
20 TRATION PROVISION IN THE POLICY.

21 (11) IF AN INSURED WHO IS A PARENT OR GUARDIAN OF A MINOR OR
22 INCOMPETENT ADULT DEPENDENT WHO IS ALSO COVERED AS A DEPENDENT
23 UNDER ANOTHER HEALTH CARE COVERAGE OR BENEFIT PLAN ACCEPTS AN
24 ARBITRATION PROVISION IN A POLICY UNDER SUBSECTION (2), AND IF
25 THE BENEFITS OF THE POLICY WOULD BE DETERMINED BEFORE THE BENE-
26 FITS OF THE OTHER HEALTH CARE COVERAGE OR BENEFIT PLAN UNDER ACT
27 NO. 64 OF THE PUBLIC ACTS OF 1984, THEN THE MINOR OR INCOMPETENT

1 ADULT DEPENDENT CONTINUES TO BE BOUND BY THE ARBITRATION
2 PROVISION IN THE POLICY, EVEN IF AN ARBITRATION PROVISION IN THE
3 OTHER HEALTH CARE COVERAGE OR BENEFIT PLAN IS REJECTED BY ANOTHER
4 PARENT OR GUARDIAN OF THE MINOR OR INCOMPETENT ADULT DEPENDENT.

5 (12) THE COMMISSIONER SHALL SUBMIT A WRITTEN REPORT TO THE
6 LEGISLATURE ON THE EFFECT OF ARBITRATION AGREEMENTS CONTAINED IN
7 POLICIES OF DISABILITY INSURANCE DESCRIBED IN SUBSECTION (1).
8 THE REPORT SHALL INCLUDE, BUT IS NOT LIMITED TO, COST SAVINGS
9 REALIZED BY INSURERS AS A RESULT OF INCLUDING ARBITRATION AGREE-
10 MENTS IN THE POLICIES OF DISABILITY INSURANCE. THE REPORT
11 REQUIRED UNDER THIS SUBSECTION SHALL BE SUBMITTED NOT LATER THAN
12 THE EXPIRATION OF 5 YEARS AFTER THE EFFECTIVE DATE OF THIS
13 SECTION. IF THE COMMISSIONER DETERMINES THAT INSURERS HAVE REAL-
14 IZED COST SAVINGS AS A RESULT OF INCLUDING ARBITRATION PROVISIONS
15 IN INSURANCE CONTRACTS AS DESCRIBED IN SUBSECTION (1), THE COM-
16 MISSIONER SHALL CONSIDER THE COST SAVINGS IN MAKING RATE DETERMI-
17 NATIONS FOR SUCH INSURERS.

18 (13) AS USED IN THIS SECTION:

19 (A) "ADULT" MEANS AN INDIVIDUAL WHO IS 18 YEARS OF AGE OR
20 OLDER.

21 (B) "HEALTH CARE FACILITY" MEANS A HEALTH FACILITY OR AGENCY
22 AS DEFINED IN SECTION 20106 OF THE PUBLIC HEALTH CODE, ACT
23 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.20106 OF
24 THE MICHIGAN COMPILED LAWS.

25 (C) "HEALTH PROFESSIONAL" MEANS A PERSON LICENSED, CERTI-
26 FIED, OR REGISTERED UNDER PARTS 161 TO 183 OF ACT NO. 368 OF THE

1 PUBLIC ACTS OF 1978, BEING SECTIONS 333.16101 TO 333.18311 OF THE
2 MICHIGAN COMPILED LAWS.

3 (D) "MALPRACTICE" MEANS A DISPUTE, CONTROVERSY, OR ISSUE
4 ARISING OUT OF OR RESULTING FROM INJURY TO OR THE DEATH OF, AN
5 INDIVIDUAL WHICH WAS CAUSED BY AN ERROR, OMISSION, OR NEGLIGENCE
6 IN THE PERFORMANCE OF SERVICES BY A HEALTH PROFESSIONAL, HEALTH
7 CARE FACILITY, OR THEIR AGENT OR BASED ON A CLAIMED PERFORMANCE
8 OF SUCH SERVICES WITHOUT CONSENT, IN BREACH OF WARRANTY, OR IN
9 VIOLATION OF CONTRACT.

10 (14) THIS SECTION IS REPEALED EFFECTIVE UPON THE EXPIRATION
11 OF 6 YEARS AFTER ITS EFFECTIVE DATE.