

RCW 7.70.100 Mandatory mediation of health care claims—

Procedures. (1) Before a superior court trial, all causes of action, whether based in tort, contract, or otherwise, for damages arising from injury occurring as a result of health care provided after July 1, 1993, shall be subject to mandatory mediation prior to trial except as provided in subsection (4) of this section.

(2) The supreme court shall by rule adopt procedures to implement mandatory mediation of actions under this chapter. The implementation contemplates the adoption of rules by the supreme court which will require mandatory mediation without exception unless subsection (4) of this section applies. The rules on mandatory mediation shall address, at a minimum:

(a) Procedures for the appointment of, and qualifications of, mediators. A mediator shall have experience or expertise related to actions arising from injury occurring as a result of health care, and be a member of the state bar association who has been admitted to the bar for a minimum of five years or who is a retired judge. The parties may stipulate to a nonlawyer mediator. The court may prescribe additional qualifications of mediators;

(b) Appropriate limits on the amount or manner of compensation of mediators;

(c) The number of days following the filing of a claim under this chapter within which a mediator must be selected;

(d) The method by which a mediator is selected. The rule shall provide for designation of a mediator by the superior court if the parties are unable to agree upon a mediator;

(e) The number of days following the selection of a mediator within which a mediation conference must be held;

(f) A means by which mediation of an action under this chapter may be waived by a mediator who has determined that the claim is not appropriate for mediation; and

(g) Any other matters deemed necessary by the court.

(3) Mediators shall not impose discovery schedules upon the parties.

(4) The mandatory mediation requirement of subsection (2) of this section does not apply to an action subject to mandatory arbitration under chapter 7.06 RCW or to an action in which the parties have agreed, subsequent to the arisal of the claim, to submit the claim to arbitration under chapter 7.04A or 7.70A RCW.

(5) The implementation also contemplates the adoption of a rule by the supreme court for procedures for the parties to certify to the court the manner of mediation used by the parties to comply with this section. [2013 c 82 s 1; 2007 c 119 s 1; 2006 c 8 s 314; 1993 c 492 s 419.]

Findings—Intent—Part headings and subheadings not law—

Severability—2006 c 8: See notes following RCW 5.64.010.

Medical malpractice review—1993 c 492: "(1) The administrator for the courts shall coordinate a collaborative effort to develop a voluntary system for review of medical malpractice claims by health services experts prior to the filing of a cause of action under chapter 7.70 RCW.

(2) The system shall have at least the following components:

(a) Review would be initiated, by agreement of the injured claimant and the health care provider, at the point at which a medical

malpractice claim is submitted to a malpractice insurer or a self-insured health care provider.

(b) By agreement of the parties, an expert would be chosen from a pool of health services experts who have agreed to review claims on a voluntary basis.

(c) The mutually agreed upon expert would conduct an impartial review of the claim and provide his or her opinion to the parties.

(d) A pool of available experts would be established and maintained for each category of health care practitioner by the corresponding practitioner association, such as the Washington state medical association and the Washington state nurses association.

(3) The administrator for the courts shall seek to involve at least the following organizations in a collaborative effort to develop the informal review system described in subsection (2) of this section:

(a) The Washington defense trial lawyers association;

(b) The Washington state trial lawyers association;

(c) The Washington state medical association;

(d) The Washington state nurses association and other employee organizations representing nurses;

(e) The Washington state hospital association;

(f) The Washington state physicians insurance exchange and association;

(g) The Washington casualty company;

(h) The doctor's agency;

(i) Group health cooperative of Puget Sound;

(j) The University of Washington;

(k) Washington osteopathic medical association;

(l) Washington state chiropractic association;

(m) Washington association of naturopathic physicians; and

(n) The department of health.

(4) On or before January 1, 1994, the administrator for the courts shall provide a report on the status of the development of the system described in this section to the governor and the appropriate committees of the senate and the house of representatives." [1993 c 492 s 418.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Savings—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.