

Binding Arbitration Overview

What is Binding Arbitration?

Binding Arbitration is not a new idea, but it is one that Southern Cross Insurance Solutions recommends for The Midwife Plan. Medical malpractice lawsuits are often very lengthy and expensive for all parties, and these costs contribute to the rising costs of health care. Arbitration is a relatively informal process of resolving disputes that is an alternative to the traditional court system.

Through arbitration, patients and providers benefit because they are able to more promptly resolve malpractice claims, and they are able to do so for less cost to each party. Arbitration avoids unreasonable jury awards, thereby lowering costs, which positively impact rates and the availability of health care.



How does Binding Arbitration work?

The Binding Arbitration process starts with a notice from one party demanding arbitration. The provider and the patient each name an arbitrator to serve on their behalf. These two arbitrators then pick a third member of the panel. An arbitrator is like a judge, in that he or she listens to the evidence presented by both sides and decides whether malpractice occurred. If necessary, the arbitrators can issue subpoenas to compel witnesses to appear at the hearing or to obtain documents or other evidence.

At the arbitration hearing, each party is represented by their own attorney. Each party has the opportunity to present evidence and witnesses, and cross-examine the other party's witnesses. The arbitration panel listens to the evidence and renders a decision. The panel applies the same laws that a court would, but the procedural rules are more relaxed and the hearing is less formal than a trial. Based on the evidence and the law, the arbitrators can award any amount or kind of damages that a court can award.

What are the benefits of Binding Arbitration?

- ✓ **Time Savings** – Disputes are resolved quickly.
- ✓ **Cost Savings** – The informality of arbitration hearings means they are less expensive than trials.
- ✓ **Educated and Experienced** – Arbitration panels are familiar with The Midwifery Model of Care.
- ✓ **Finality** – Since the process is binding, the decision of the arbitrators is final and cannot generally be appealed, except on very limited grounds.

For more information on Binding Arbitration or for legal assistance, please contact The Health Law Firm:
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