

Arbitration

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- **The Indiana Medical Malpractice Act does not prohibit arbitration of professional liability claims however arbitration is considered to be inconsistent with intent of the Act.**

- **Does arbitration lower costs or reduce losses?**

There is no evidence or experience that arbitration will reduce costs for the insurance company and, consequently, it will not reduce premiums, conversely arbitration can be expensive.

- **Loss of rights and potential conflicts with co-defendants.**

Arbitration agreements create binding contractual obligations.

In arbitration, all parties waive their rights to a trial by jury, judicial appellate review, use of the Rules of Civil Procedure, and use of the Rules of Evidence. The arbitrator has virtually unlimited discretion to allow the submission and consideration of any evidence regardless of its relevance or prejudicial effect, and the decision of the arbitrator is almost always final. Moreover, arbitration could cause conflict with codefendant doctors and hospitals who are litigating the same claim.

In addition, it could potentially conflict with the Indiana Medical Malpractice Act and Indiana Patients Compensation Fund.

- **Protection through insurance.**

Your professional liability insurance policy pays the full cost of defending any claim or suit for which coverage exists, generally without limits. It also pays any covered loss up to the policy's limits of coverage. In addition, you are afforded the capitation limit \$1,250,000 of the Indiana Medical Malpractice Act.

You are encouraged to consult your attorney.

Source: ProAssurance & Indiana Department of Insurance

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