

REFERENCE TITLE: **insurers; health providers; claims mediation**

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

# **SB 1441**

Introduced by  
Senators Lesko: Allen S, Bowie, Fann, Worsley, Yee

**AN ACT**

**AMENDING TITLE 20, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 17.1;  
RELATING TO HEALTH CARE INSURANCE CLAIMS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, Arizona Revised Statutes, is amended by adding  
3 chapter 17.1, to read:

4 CHAPTER 17.1

5 OUT-OF-NETWORK CLAIM DISPUTE RESOLUTION

6 ARTICLE 1. GENERAL PROVISIONS

7 20-2851. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ADMINISTRATOR" MEANS THE CLAIMS ADMINISTRATOR FOR THE HEALTH  
10 BENEFIT PLAN.

11 2. "CHIEF ADMINISTRATIVE LAW JUDGE" MEANS THE CHIEF ADMINISTRATIVE  
12 LAW JUDGE OF THE OFFICE OF ADMINISTRATIVE HEARINGS.

13 3. "DEPARTMENT" MEANS THE DEPARTMENT OF INSURANCE.

14 4. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

15 5. "ENROLLEE" MEANS AN INDIVIDUAL WHO IS ELIGIBLE TO RECEIVE  
16 BENEFITS THROUGH A HEALTH CARE SERVICES PLAN.

17 6. "FACILITY" MEANS A LICENSED HEALTH CARE INSTITUTION IN THIS  
18 STATE.

19 7. "HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED,  
20 REGISTERED OR CERTIFIED AS A HEALTH CARE PROFESSIONAL UNDER TITLE 32 OR A  
21 LABORATORY, DURABLE MEDICAL EQUIPMENT PROVIDER OR OTHER HEALTH CARE  
22 SERVICE PROVIDER THAT FURNISHES SERVICES TO A PATIENT IN A NETWORK  
23 FACILITY AND SEPARATELY BILLS THE PATIENT FOR THE SERVICES.

24 8. "HEALTH CARE SERVICES PLAN" MEANS AN INDIVIDUAL OR GROUP PLAN  
25 OFFERED BY A DISABILITY INSURER, GROUP DISABILITY INSURER, BLANKET  
26 DISABILITY INSURER, HOSPITAL SERVICE CORPORATION OR MEDICAL SERVICE  
27 CORPORATION UNDER WHICH THE FINANCING AND DELIVERY OF HEALTH CARE SERVICES  
28 ARE PROVIDED, IN WHOLE OR IN PART, THROUGH A DEFINED SET OF PROVIDERS  
29 UNDER CONTRACT WITH THE INSURER.

30 9. "INSURER" MEANS A DISABILITY INSURER, GROUP DISABILITY INSURER,  
31 BLANKET DISABILITY INSURER, HOSPITAL SERVICE CORPORATION OR MEDICAL  
32 SERVICE CORPORATION.

33 10. "MEDIATION" MEANS A PROCESS IN WHICH AN IMPARTIAL MEDIATOR  
34 FACILITATES AND PROMOTES AGREEMENT BETWEEN THE INSURER OFFERING A  
35 PREFERRED PROVIDER BENEFIT PLAN OR THE ADMINISTRATOR AND A HEALTH CARE  
36 PROVIDER OR THE HEALTH CARE PROVIDER'S REPRESENTATIVE TO SETTLE AN  
37 ENROLLEE'S HEALTH BENEFIT CLAIM.

38 11. "MEDIATOR" MEANS AN IMPARTIAL PERSON WHO IS APPOINTED TO  
39 CONDUCT A MEDIATION UNDER THIS CHAPTER.

40 12. "NETWORK FACILITY" MEANS A FACILITY THAT IS A MEMBER OF AN  
41 INSURED'S HEALTH CARE SERVICES PLAN NETWORK.

42 13. "PARTY" MEANS AN INSURER OFFERING A HEALTH CARE SERVICES PLAN  
43 OR A HEALTH CARE PROVIDER OR THE HEALTH CARE PROVIDER'S REPRESENTATIVE WHO  
44 PARTICIPATES IN A MEDIATION CONDUCTED UNDER THIS CHAPTER. PARTY INCLUDES  
45 AN ENROLLEE.

1           14. "PREFERRED PROVIDER" MEANS A HEALTH CARE PROVIDER THAT IS  
2 LICENSED TO FURNISH HEALTH CARE SERVICES IN THIS STATE OR AN ORGANIZATION  
3 OF PHYSICIANS OR HEALTH CARE PROVIDERS THAT CONTRACT WITH THE INSURER TO  
4 PROVIDED COVERED SERVICES UNDER A HEALTH CARE SERVICES PLAN.

5           15. "SURPRISE OUT-OF-NETWORK BILL" MEANS A BILL FOR ANY MEDICAL  
6 SERVICE PERFORMED AT A NETWORK FACILITY BY A HEALTH CARE PROVIDER THAT IS  
7 NOT A PREFERRED PROVIDER IF THE INSURED DID NOT KNOW THAT THE HEALTH CARE  
8 PROVIDER THAT WAS PERFORMING THE SERVICE WAS NOT A PREFERRED PROVIDER OR A  
9 PREFERRED PROVIDER WAS NOT AVAILABLE AND IT WAS IMPRACTICAL TO WAIT FOR A  
10 PREFERRED PROVIDER AND THE PATIENT DID NOT KNOWINGLY ELECT TO OBTAIN AN  
11 OUT-OF-NETWORK SERVICE.

12           20-2852. Applicability of chapter; remedies

13           A. THIS CHAPTER APPLIES TO HEALTH CARE SERVICES PLANS AND HEALTH  
14 CARE PROVIDERS.

15           B. THE REMEDIES PROVIDED BY THIS CHAPTER ARE IN ADDITION TO ANY  
16 OTHER DEFENSE, REMEDY OR PROCEDURE PROVIDED BY LAW.

17           C. THIS CHAPTER DOES NOT PROHIBIT EITHER:

18           1. AN INSURER THAT OFFERS A HEALTH CARE SERVICES PLAN FROM, AT ANY  
19 TIME, OFFERING A REFORMED CLAIM SETTLEMENT.

20           2. A HEALTH CARE PROVIDER FROM, AT ANY TIME, OFFERING A REFORMED  
21 CHARGE FOR MEDICAL SERVICES.

22           D. THIS CHAPTER DOES NOT APPLY TO LIMITED BENEFIT COVERAGE AS  
23 DEFINED IN SECTION 20-1137.

24           20-2853. Mandatory mediation

25           A. AN ENROLLEE MAY REQUEST MEDIATION OF A SETTLEMENT OF AN  
26 OUT-OF-NETWORK HEALTH BENEFIT CLAIM IF ALL OF THE FOLLOWING APPLY:

27           1. THE AMOUNT FOR WHICH THE ENROLLEE IS RESPONSIBLE TO A HEALTH  
28 CARE PROVIDER, AFTER COPAYMENTS, DEDUCTIBLES AND COINSURANCE, INCLUDING  
29 THE AMOUNT UNPAID BY THE INSURER, IS GREATER THAN ONE THOUSAND DOLLARS.

30           2. THE OUT-OF-NETWORK HEALTH BENEFIT CLAIM IS FOR A MEDICAL SERVICE  
31 OR SUPPLY PROVIDED BY A HEALTH CARE PROVIDER IN A FACILITY THAT IS A  
32 PREFERRED PROVIDER.

33           3. THE ENROLLEE RECEIVED A SURPRISE OUT-OF-NETWORK BILL.

34           B. EXCEPT AS PROVIDED IN SUBSECTIONS C AND D OF THIS SECTION AND  
35 NOTWITHSTANDING SECTION 20-3102, IF AN ENROLLEE REQUESTS MEDIATION UNDER  
36 THIS SECTION, THE HEALTH CARE PROVIDER OR THE HEALTH CARE PROVIDER'S  
37 REPRESENTATIVE AND THE INSURER SHALL PARTICIPATE IN THE MEDIATION.

38           C. EXCEPT IN THE CASE OF AN EMERGENCY AND IF REQUESTED BY THE  
39 ENROLLEE, A HEALTH CARE PROVIDER, BEFORE PROVIDING A MEDICAL SERVICE OR  
40 SUPPLY, SHALL PROVIDE A COMPLETE DISCLOSURE TO AN ENROLLEE THAT INCLUDES  
41 ALL OF THE FOLLOWING:

42           1. EXPLAINS THAT THE HEALTH CARE PROVIDER DOES NOT HAVE A CONTRACT  
43 WITH THE ENROLLEE'S HEALTH CARE SERVICES PLAN.

44           2. DISCLOSES THE PROJECTED AMOUNTS FOR WHICH THE ENROLLEE MAY BE  
45 RESPONSIBLE.

1           3. DISCLOSES THE CIRCUMSTANCES UNDER WHICH THE ENROLLEE WOULD BE  
2 RESPONSIBLE FOR THOSE AMOUNTS.

3           D. A HEALTH CARE PROVIDER THAT MAKES A DISCLOSURE UNDER SUBSECTION  
4 C OF THIS SECTION AND THAT OBTAINS THE ENROLLEE'S WRITTEN ACKNOWLEDGMENT  
5 OF THAT DISCLOSURE MAY NOT BE REQUIRED TO MEDIATE A BILLED CHARGE UNDER  
6 THIS SECTION IF THE AMOUNT BILLED IS LESS THAN OR EQUAL TO THE MAXIMUM  
7 AMOUNT PROJECTED IN THE DISCLOSURE.

8           20-2854. Mediator qualifications

9           A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, TO QUALIFY  
10 FOR AN APPOINTMENT AS A MEDIATOR UNDER THIS CHAPTER A PERSON SHALL HAVE  
11 COMPLETED AT LEAST FORTY CLASSROOM HOURS OF TRAINING IN DISPUTE RESOLUTION  
12 TECHNIQUES IN A COURSE CONDUCTED BY AN ALTERNATIVE DISPUTE RESOLUTION  
13 ORGANIZATION OR ANOTHER DISPUTE RESOLUTION ORGANIZATION APPROVED BY THE  
14 CHIEF ADMINISTRATIVE LAW JUDGE.

15           B. A PERSON WHO IS NOT QUALIFIED UNDER SUBSECTION A OF THIS SECTION  
16 MAY BE APPOINTED AS A MEDIATOR ON AGREEMENT OF THE PARTIES.

17           C. A PERSON MAY NOT ACT AS MEDIATOR FOR A CLAIM SETTLEMENT DISPUTE  
18 IF THE PERSON HAS BEEN EMPLOYED BY, CONSULTED FOR OR OTHERWISE HAD A  
19 BUSINESS RELATIONSHIP WITH AN INSURER OFFERING THE HEALTH CARE SERVICES  
20 PLAN OR A HEALTH CARE PROVIDER DURING THE THREE YEARS IMMEDIATELY  
21 PRECEDING THE REQUEST FOR MEDIATION.

22           20-2855. Appointment of mediator; fees

23           A. ONE MEDIATOR SHALL CONDUCT A MEDIATION.

24           B. THE CHIEF ADMINISTRATIVE LAW JUDGE SHALL APPOINT THE MEDIATOR  
25 THROUGH A RANDOM ASSIGNMENT FROM A LIST OF QUALIFIED MEDIATORS THAT IS  
26 MAINTAINED BY THE OFFICE OF ADMINISTRATIVE HEARINGS.

27           C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A PERSON OTHER  
28 THAN A MEDIATOR WHO IS APPOINTED BY THE CHIEF ADMINISTRATIVE LAW JUDGE MAY  
29 CONDUCT THE MEDIATION ON AGREEMENT OF ALL OF THE PARTIES AND SHALL PROVIDE  
30 NOTICE TO THE CHIEF ADMINISTRATIVE LAW JUDGE OF THE CHANGE IN MEDIATOR.

31           D. THE MEDIATOR'S FEES SHALL BE SPLIT EVENLY AND PAID BY THE  
32 INSURER AND THE HEALTH CARE PROVIDER.

33           20-2856. Mandatory mediation; request; procedures

34           A. AN ENROLLEE MAY REQUEST MANDATORY MEDIATION UNDER THIS CHAPTER.

35           B. A REQUEST FOR MANDATORY MEDIATION SHALL BE PROVIDED TO THE  
36 DEPARTMENT ON A FORM PRESCRIBED BY THE DIRECTOR AND SHALL INCLUDE:

37           1. THE NAME OF THE ENROLLEE WHO IS REQUESTING MEDIATION.

38           2. A BRIEF DESCRIPTION OF THE CLAIM TO BE MEDIATED.

39           3. CONTACT INFORMATION, INCLUDING A TELEPHONE NUMBER, FOR THE  
40 REQUESTING ENROLLEE AND THE ENROLLEE'S COUNSEL, IF THE ENROLLEE RETAINS  
41 COUNSEL.

42           4. THE NAME OF THE HEALTH CARE PROVIDER AND NAME OF THE INSURER.

43           5. ANY OTHER INFORMATION THE DIRECTOR MAY REQUIRE BY RULE.

44           C. ON RECEIPT OF A REQUEST FOR MEDIATION, THE DEPARTMENT SHALL  
45 NOTIFY THE HEALTH CARE PROVIDER AND THE INSURER OF THE REQUEST.

1 D. IN AN EFFORT TO SETTLE THE CLAIM BEFORE MEDIATION, ALL PARTIES  
2 SHALL PARTICIPATE IN AN INFORMAL SETTLEMENT TELECONFERENCE WITHIN THIRTY  
3 DAYS AFTER THE DATE ON WHICH THE ENROLLEE SUBMITS A REQUEST FOR MEDIATION.

4 E. A DISPUTE TO BE MEDIATED UNDER THIS CHAPTER THAT DOES NOT SETTLE  
5 AS A RESULT OF A TELECONFERENCE CONDUCTED UNDER SUBSECTION D OF THIS  
6 SECTION SHALL BE CONDUCTED IN THE COUNTY IN WHICH THE MEDICAL SERVICES  
7 WERE RENDERED.

8 F. THE ENROLLEE MAY ELECT TO PARTICIPATE IN THE MEDIATION. A  
9 MEDIATION MAY NOT PROCEED WITHOUT THE CONSENT OF THE ENROLLEE. AN  
10 ENROLLEE MAY WITHDRAW THE REQUEST FOR MEDIATION AT ANY TIME BEFORE THE  
11 MEDIATION.

12 G. NOTWITHSTANDING SUBSECTION F OF THIS SECTION, MEDIATION MAY  
13 PROCEED WITHOUT THE PARTICIPATION OF THE ENROLLEE OR THE ENROLLEE'S  
14 REPRESENTATIVE IF THE ENROLLEE OR THE ENROLLEE'S REPRESENTATIVE IS NOT  
15 PRESENT IN PERSON OR THROUGH TELECONFERENCE.

16 20-2857. Mediation; confidentiality

17 A. A MEDIATOR MAY NOT IMPOSE THE MEDIATOR'S JUDGMENT ON A PARTY  
18 ABOUT AN ISSUE THAT IS A SUBJECT OF THE MEDIATION.

19 B. A MEDIATION SESSION IS UNDER THE CONTROL OF THE MEDIATOR.

20 C. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, THE MEDIATOR SHALL  
21 HOLD IN STRICT CONFIDENCE ALL INFORMATION PROVIDED TO THE MEDIATOR BY A  
22 PARTY AND ALL COMMUNICATIONS OF THE MEDIATOR WITH A PARTY.

23 D. IF THE ENROLLEE IS PARTICIPATING IN THE MEDIATION IN PERSON, AT  
24 THE BEGINNING OF THE MEDIATION, THE MEDIATOR SHALL INFORM THE ENROLLEE  
25 THAT IF THE ENROLLEE IS NOT SATISFIED WITH THE MEDIATED AGREEMENT, THE  
26 ENROLLEE MAY FILE A COMPLAINT WITH ANY OF THE FOLLOWING:

27 1. THE APPROPRIATE AGENCY OR HEALTH CARE REGULATORY BOARD AGAINST  
28 THE HEALTH CARE PROVIDER FOR IMPROPER BILLING.

29 2. THE DEPARTMENT FOR UNFAIR CLAIM SETTLEMENT PRACTICES.

30 E. A PARTY SHALL HAVE AN OPPORTUNITY DURING THE MEDIATION TO SPEAK  
31 AND STATE THE PARTY'S POSITION.

32 F. EXCEPT ON THE AGREEMENT OF THE PARTICIPATING PARTIES, A  
33 MEDIATION MAY NOT LAST MORE THAN FOUR HOURS.

34 G. EXCEPT ON THE REQUEST OF AN ENROLLEE, A MEDIATION SHALL BE HELD  
35 WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE DATE OF THE REQUEST FOR  
36 MEDIATION.

37 H. NOTWITHSTANDING ANY OTHER LAW, ON RECEIPT OF NOTICE FROM THE  
38 DEPARTMENT THAT AN ENROLLEE HAS MADE A REQUEST FOR MEDIATION THAT MEETS  
39 THE REQUIREMENTS OF THIS CHAPTER, THE HEALTH CARE PROVIDER MAY NOT PURSUE  
40 ANY COLLECTION EFFORT AGAINST THAT ENROLLEE FOR COPAYMENTS, DEDUCTIBLES  
41 AND COINSURANCE BEFORE THE EARLIER OF:

42 1. THE DATE THE MEDIATION IS COMPLETED.

43 2. THE DATE THE REQUEST TO MEDIATE IS WITHDRAWN.

1 I. A SERVICE PROVIDED BY A HEALTH CARE PROVIDER MAY NOT BE  
2 SUMMARILY DISALLOWED. THIS SUBSECTION DOES NOT REQUIRE AN INSURER TO PAY  
3 FOR AN UNCOVERED SERVICE.

4 J. A MEDIATOR MAY NOT TESTIFY IN A PROCEEDING, OTHER THAN A  
5 PROCEEDING TO ENFORCE THIS CHAPTER, RELATED TO THE MEDIATION AGREEMENT.

6 20-2858. Matters agreed in mediation

7 A. IN A MEDIATION UNDER THIS CHAPTER, THE PARTIES SHALL EVALUATE  
8 WHETHER:

9 1. THE AMOUNT CHARGED BY THE HEALTH CARE PROVIDER FOR THE MEDICAL  
10 SERVICE OR SUPPLY IS EXCESSIVE.

11 2. THE AMOUNT PAID BY THE INSURER REPRESENTS THE USUAL AND  
12 CUSTOMARY RATE FOR THE MEDICAL SERVICE OR SUPPLY OR IS UNREASONABLY LOW.

13 B. NOTWITHSTANDING THE DETERMINATIONS MADE IN MEDIATION OR BY A  
14 SPECIAL MASTER UNDER THIS CHAPTER, THE ENROLLEE IS RESPONSIBLE ONLY FOR  
15 THE ENROLLEE'S COPAYMENTS, DEDUCTIBLES AND COINSURANCE.

16 C. THE HEALTH CARE PROVIDER MAY PRESENT INFORMATION REGARDING THE  
17 AMOUNT CHARGED FOR THE MEDICAL SERVICE OR SUPPLY. THE INSURER MAY PRESENT  
18 INFORMATION REGARDING THE AMOUNT PAID BY THE INSURER.

19 D. THIS CHAPTER DOES NOT PROHIBIT MEDIATION OF MORE THAN ONE CLAIM  
20 BETWEEN THE PARTIES DURING A MEDIATION.

21 E. THE GOAL OF THE MEDIATION IS TO REACH AN AGREEMENT AMONG THE  
22 ENROLLEE, THE HEALTH CARE PROVIDER AND THE INSURER AS TO THE AMOUNT PAID  
23 BY THE INSURER TO THE HEALTH CARE PROVIDER AND THE AMOUNT CHARGED BY THE  
24 HEALTH CARE PROVIDER.

25 20-2859. Resolution; no agreement; special master

26 A. THE MEDIATOR OF AN UNSUCCESSFUL MEDIATION UNDER THIS CHAPTER  
27 SHALL REPORT THE OUTCOME OF THE MEDIATION TO THE DEPARTMENT, THE  
28 APPROPRIATE AGENCY OR HEALTH CARE REGULATORY BOARD OF THE HEALTH CARE  
29 PROVIDER AND THE CHIEF ADMINISTRATIVE LAW JUDGE.

30 B. THE CHIEF ADMINISTRATIVE LAW JUDGE SHALL ENTER AN ORDER OF  
31 REFERRAL OF A MATTER REPORTED UNDER SUBSECTION A OF THIS SECTION AND  
32 APPOINT A SPECIAL MASTER. THE ORDER SHALL:

33 1. NAME THE SPECIAL MASTER ON WHOM THE PARTIES AGREE OR APPOINT A  
34 SPECIAL MASTER IF THE PARTIES DID NOT AGREE ON A SPECIAL MASTER.

35 2. STATE THE ISSUES TO BE REFERRED AND THE TIME AND PLACE ON WHICH  
36 THE PARTIES AGREE FOR THE TRIAL.

37 3. REQUIRE EACH PARTY TO PAY THE PARTY'S PROPORTIONATE SHARE OF THE  
38 SPECIAL MASTER'S FEE.

39 4. CERTIFY THAT THE PARTIES HAVE WAIVED THE RIGHT TO TRIAL BY JURY.

40 C. A TRIAL BY THE SPECIAL MASTER WHO IS SELECTED OR APPOINTED  
41 PURSUANT TO SUBSECTION B OF THIS SECTION SHALL PROCEED AND THE POWERS OF  
42 THE SPECIAL MASTER ARE THOSE GRANTED UNDER RULE 53, ARIZONA RULES OF CIVIL  
43 PROCEDURE. THE SPECIAL MASTER'S VERDICT IS NOT RELEVANT OR MATERIAL TO  
44 ANY OTHER OUT-OF-NETWORK CLAIM DISPUTE AND HAS NO PRECEDENTIAL VALUE.

1           20-2860. Continuation of mediation  
2           AFTER A REFERRAL IS MADE PURSUANT TO SECTION 20-2859, THE HEALTH  
3 CARE PROVIDER AND THE INSURER MAY ELECT TO CONTINUE THE MEDIATION TO  
4 FURTHER DETERMINE THEIR RESPONSIBILITIES. CONTINUATION OF MEDIATION UNDER  
5 THIS SECTION DOES NOT AFFECT THE AMOUNT OF THE BILLED CHARGE TO THE  
6 ENROLLEE.

7           20-2861. Mediation agreement  
8           A. THE MEDIATOR SHALL PREPARE A CONFIDENTIAL MEDIATION AGREEMENT  
9 AND ORDER THAT STATES ANY AGREEMENT REACHED BY THE PARTIES PURSUANT TO  
10 SECTION 20-2860.

11           B. THE MEDIATOR SHALL REPORT TO THE DIRECTOR AND THE APPROPRIATE  
12 AGENCY OR HEALTH CARE REGULATORY BOARD:

- 13           1. THE NAMES OF THE PARTIES TO THE MEDIATION.  
14           2. WHETHER THE PARTIES REACHED AN AGREEMENT OR THE MEDIATOR MADE A  
15 REFERRAL UNDER SECTION 20-2859.

16           20-2862. Bad faith mediation; administrative penalties  
17           A. THE FOLLOWING CONDUCT CONSTITUTES BAD FAITH MEDIATION FOR  
18 PURPOSES OF THIS CHAPTER:

- 19           1. FAILING TO PARTICIPATE IN THE MEDIATION.  
20           2. FAILING TO PROVIDE INFORMATION THE MEDIATOR BELIEVES IS  
21 NECESSARY TO FACILITATE AN AGREEMENT.  
22           3. FAILING TO DESIGNATE A REPRESENTATIVE PARTICIPATING IN THE  
23 MEDIATION WITH FULL AUTHORITY TO ENTER INTO ANY MEDIATED AGREEMENT.

24           B. FAILURE TO REACH AN AGREEMENT IS NOT CONCLUSIVE PROOF OF BAD  
25 FAITH MEDIATION.

26           C. A MEDIATOR SHALL REPORT BAD FAITH MEDIATION TO THE DEPARTMENT OR  
27 THE APPROPRIATE AGENCY OR HEALTH CARE REGULATORY BOARD OF THE HEALTH CARE  
28 PROVIDER, AS APPROPRIATE, FOLLOWING THE CONCLUSION OF THE MEDIATION.

29           D. BAD FAITH MEDIATION BY A PARTY OTHER THAN THE ENROLLEE IS  
30 GROUNDS FOR IMPOSITION OF AN ADMINISTRATIVE PENALTY BY THE REGULATORY  
31 AGENCY THAT ISSUED A LICENSE, CERTIFICATE OR CERTIFICATE OF AUTHORITY TO  
32 THE PARTY WHO COMMITTED THE VIOLATION.

33           E. EXCEPT FOR GOOD CAUSE SHOWN, ON A REPORT OF A MEDIATOR AND  
34 APPROPRIATE PROOF OF BAD FAITH MEDIATION, THE REGULATORY AGENCY THAT  
35 ISSUED THE LICENSE, CERTIFICATE OR CERTIFICATE OF AUTHORITY SHALL IMPOSE  
36 AN ADMINISTRATIVE PENALTY.

37           20-2863. Consumer protection; rules  
38           A. THE DIRECTOR AND THE AGENCY OR THE HEALTH CARE REGULATORY BOARDS  
39 THAT LICENSE, CERTIFY OR REGISTER HEALTH CARE PROVIDERS SHALL ADOPT RULES  
40 REGULATING THE INVESTIGATION AND REVIEW OF A COMPLAINT FILED THAT RELATES  
41 TO THE SETTLEMENT OF AN OUT-OF-NETWORK HEALTH CARE SERVICES PLAN CLAIM  
42 THAT IS SUBJECT TO THIS CHAPTER. THE RULES ADOPTED UNDER THIS SECTION  
43 SHALL:

1           1. DISTINGUISH AMONG COMPLAINTS FOR OUT-OF-NETWORK COVERAGE OR  
2 PAYMENT AND GIVE PRIORITY TO INVESTIGATING ALLEGATIONS OF DELAYED MEDICAL  
3 CARE.

4           2. DEVELOP A FORM FOR FILING A COMPLAINT AND ESTABLISH AN OUTREACH  
5 EFFORT TO INFORM ENROLLEES OF THE AVAILABILITY OF THE CLAIMS DISPUTE  
6 RESOLUTION PROCESS UNDER THIS CHAPTER.

7           3. ENSURE THAT A COMPLAINT IS NOT DISMISSED WITHOUT APPROPRIATE  
8 CONSIDERATION.

9           4. ENSURE THAT ENROLLEES ARE INFORMED OF THE AVAILABILITY OF  
10 MANDATORY MEDIATION.

11           B. THE DEPARTMENT AND THE APPROPRIATE AGENCY OR HEALTH CARE  
12 REGULATORY BOARD SHALL MAINTAIN INFORMATION:

13           1. ON EACH COMPLAINT FILED THAT CONCERNS A CLAIM OR MEDIATION  
14 SUBJECT TO THIS CHAPTER.

15           2. RELATED TO A CLAIM THAT IS THE BASIS OF AN ENROLLEE COMPLAINT,  
16 INCLUDING:

17           (a) THE TYPE OF SERVICES THAT GAVE RISE TO THE DISPUTE.

18           (b) THE TYPE AND SPECIALTY, IF APPLICABLE, OF THE HEALTH CARE  
19 PROVIDER WHO PROVIDED THE OUT-OF-NETWORK SERVICE AND THE SURPRISE  
20 OUT-OF-NETWORK BILL.

21           (c) THE COUNTY AND METROPOLITAN AREA IN WHICH THE MEDICAL SERVICE  
22 OR SUPPLY WAS PROVIDED.

23           (d) WHETHER THE MEDICAL SERVICE OR SUPPLY WAS FOR EMERGENCY CARE.

24           (e) ANY OTHER INFORMATION ABOUT:

25           (i) THE INSURER THAT THE DIRECTOR BY RULE REQUIRES.

26           (ii) THE HEALTH CARE PROVIDER THAT THE AGENCY OR HEALTH CARE  
27 REGULATORY BOARD BY RULE REQUIRES.

28           C. THE INFORMATION COLLECTED AND MAINTAINED BY THE DEPARTMENT AND  
29 THE AGENCY AND HEALTH CARE REGULATORY BOARDS UNDER SUBSECTION B, PARAGRAPH  
30 2 OF THIS SECTION IS PUBLIC INFORMATION AND MAY NOT INCLUDE PERSONALLY  
31 IDENTIFIABLE INFORMATION OR MEDICAL INFORMATION.

32           D. THE CHIEF ADMINISTRATIVE LAW JUDGE SHALL ADOPT RULES RELATING TO  
33 MEDIATION AND APPOINTMENT OF A SPECIAL MASTER PURSUANT TO THIS CHAPTER.

34           E. A HEALTH CARE PROVIDER THAT FAILS TO PROVIDE A DISCLOSURE UNDER  
35 SECTION 20-2853 IS NOT SUBJECT TO DISCIPLINE BY THE AGENCY OR HEALTH CARE  
36 PROVIDER'S REGULATORY BOARD FOR THAT FAILURE AND A CAUSE OF ACTION IS NOT  
37 ESTABLISHED BY A FAILURE TO DISCLOSE AS REQUIRED BY SECTION 20-2853.

38           Sec. 2. Effective date

39           This act is effective from and after December 31, 2017.