

1 **HB 1927 - H AMD 0231 ADOPTED 3-18-03**

2 By Representative Carrell

3 Strike everything after the enacting clause and insert the  
4 following:

5 "Sec. 1. RCW 7.70.100 and 1993 c 492 s 419 are each amended to  
6 read as follows:

7 (1) No action based upon a health care provider's professional  
8 negligence may be commenced unless the defendant has been given at  
9 least ninety days' notice of the intention to commence the action.  
10 If the notice is served within ninety days of the expiration of the  
11 applicable statute of limitations, the time for the commencement of  
12 the action must be extended ninety days from the service of the  
13 notice.

14 (2) The provisions of subsection (1) of this section are not  
15 applicable with respect to any defendant whose name is unknown to  
16 the plaintiff at the time of filing the complaint and who is  
17 identified therein by a fictitious name.

18 (3) After the filing of the ninety-day presuit notice, and  
19 before a superior court trial, all causes of action, whether based  
20 in tort, contract, or otherwise, for damages arising from injury  
21 occurring as a result of health care provided after July 1, 1993,  
22 shall be subject to mandatory mediation prior to trial.

23 ~~((+2))~~ (4) The supreme court shall by rule adopt procedures to  
24 implement mandatory mediation of actions under this chapter. The  
25 rules shall require mandatory mediation without exception and  
26 address, at a minimum:

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

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

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

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

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

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

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

14 ~~((+3))~~ (5) Mediators shall not impose discovery schedules upon  
15 the parties.

16 (6) The supreme court shall by rule also adopt procedures for  
17 the parties to certify to the court the manner of mediation used by  
18 the parties to comply with this section."

19 Correct the title.

**EFFECT:** Removes the provisions of the bill that required all medical malpractice actions seeking damages of \$250,000 or more to submit to mandatory arbitration. Removes the provision that waived the mandatory mediation requirement if the action was subject to mandatory arbitration or the parties agreed to submit to binding arbitration.