STATE OF MINNESOTA

IN SUPREME COURT

ADM-09-8011

ORDER ESTABLISHING DEADLINE FOR SUBMITTING COMMENTS ON PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE FOR NO-FAULT ARBITRATION

The Standing Committee for Administration on No-Fault Arbitration filed a petition on November 30, 2009 recommending amendments to the Rules of Procedure for No-Fault Arbitration. This court will consider the proposed amendments without a hearing after soliciting and reviewing comments on the petition. A copy of the petition is annexed to this order.

IT IS HEREBY ORDERED that any individual wishing to provide statements in support or opposition to the proposed amendment shall submit twelve copies in writing addressed to Frederick K. Grittner, Clerk of Appellate Courts, 25 Dr. Rev. Martin Luther King Jr. Blvd, St. Paul, Minnesota 55155, no later than February 10, 2010.

Dated: December 10, 2009

BY THE COURT:

Eric J. Magnuson
Chief Justice

STATE OF MINNESOTA
IN SUPREME COURT

PETITION FOR AMENDMENTS TO THE
MINNESOTA NO-FAULT ARBITRATION RULES

TO: THE SUPREME COURT OF THE STATE OF MINNESOTA

The Standing Committee on No-Fault Arbitration hereby Petitions the Court to amend the No-Fault Arbitration Rules as follows (proposed deletions are shown by striking the words, additions are underlined):

Rule 10. Qualification of Arbitrator and Disclosure Procedure

a. Every member of the panel shall be a licensed attorney at law of this state or a retired attorney or judge in good standing. Effective January 1, 2004, requirements for qualification as an arbitrator shall be: (1) at least 5 years in practice in this state; (2) at least one-third of the attorney's practice is with auto insurance claims or, for an attorney not actively representing clients, at least one-third of an ADR practice is with motor vehicle claims or not-fault matters; (3) completion of an arbitrator training program approved by the No-Fault Standing Committee prior to appointment to the panel; (4) at least three CLE hours on no-fault issues within their reporting period; and (5) arbitrators will be required to re-certify each year, confirming at the time of recertification that they continue to meet the above requirements.

b. No person shall serve as an arbitrator in any arbitration in which he or she has a financial or personal conflict of interest~~, whether actual or potential~~. Under procedures established by the Standing Committee and immediately following appointment to ~~the panel, each member~~ a case, every arbitrator shall be required to

disclose any circumstances likely to create a presumption or possibility of bias or conflict that may disqualify the person as a potential arbitrator. ~~Each member~~ Every arbitrator shall supplement the disclosures as circumstances require. ~~The following facts, in and of themselves, do not create a presumption of bias; that an attorney or the attorney's firm represents auto accident claimants against insurance companies including the insurance company which is the respondent in the pending matter; that an attorney or an attorney's firm represents or has represented insurance companies.~~ The fact that an arbitrator or the arbitrator's firm represents automobile accident claimants against insurance companies or self-insureds, including the respondent, does not create a presumption of bias. It is a financial conflict of interest if, within the last year, the appointed arbitrator or the arbitrator's firm has represented the respondent or respondent's insureds in a dispute for which respondent provides insurance coverage. It is a financial conflict of interest if the appointed arbitrator has received referrals within the last year from officers, employees or agents of any entity whose bills are in dispute in the arbitration or the arbitrator's firm has received such referrals and the arbitrator is aware of them. It is a conflict of interest if a provider whose bills are in dispute has provided expert testimony on behalf of a client of the arbitrator within the past year or if the arbitrator anticipates calling the provider as an expert witness in any pending matter.

c. If ~~a panel~~ an arbitrator has been certified and has met the requirements of subdivision (a) for the past five years but ~~he or she~~ becomes ineligible for certification under Rule 10(a) ~~because he or she has retired or there has been a change in his or her practice~~ due to retirement or change in practice, the arbitrator may continue to seek annual certification for up to five years from the date of retirement or practice

change ~~if he or she satisfies the following requirements:~~ if the following requirements are satisfied:

~~1.~~ The arbitrator completes and files an annual No-Fault Arbitrator Recertification form~~; and 2. In that form, the arbitrator~~ which certifies that ~~he~~

1. He or she is an attorney licensed to practice law in Minnesota and is in good standing; ~~and~~

2. He or she has retained current knowledge of the Minnesota No-Fault Act (Minn. Stat. §§ 65B.41-65B.71), Minnesota appellate court decisions interpreting the Act, the Minnesota No-Fault Arbitration Rules and the Arbitrators' Standards of Conduct; and

3. ~~The arbitrator certifies that he~~ He or she has attended CLE course(s) in the last year containing at least three credits relating to no-fault matters.

~~c.~~ The rules regarding bias and conflict of interest as set forth in subdivision ~~(a)~~ (b) remain applicable to arbitrators who are recertified under this subdivision ~~(b)~~ (c).

Committee Comment to Rule 10 Amendment

In recent years, there have been inconsistencies in district court rulings and in determinations by the Standing Committee as to what constitutes a conflict of interest for no-fault arbitrators. In response, the Standing Committee wishes to clarify what constitutes a conflict of interest for both respondents' and claimants' attorneys. The Committee recognizes that the Amendment will limit the number of arbitrators, especially in certain out state areas. But the Amendment is necessary to clarify the law and stem the tide of parties seeking removal of arbitrators in the district court. The Amendment also establishes, for the

first time, that a conflict exists if an arbitrator is to rule on a disputed bill for a medical provider who has or may be providing expert testimony for a client of the arbitrator.

The grounds for this Petition are as follows:

1. Attached as Exhibit A are the No-fault Arbitration Rules currently adopted by the Minnesota Supreme Court. These Rules are published on the AAA website at www@adr.org, under "Government & Labor" as "MN No-Fault".

2. Effective January 1, 2004, Rule 10(a) of the Minnesota No-fault Arbitration Rules limited the qualifications for no-fault arbitrators to attorneys who specialize in auto insurance claims (as one-third of an active law practice or one-third of an ADR practice). As a result, in many areas of the state, the pool of eligible arbitrators is small and consists largely of practitioners who are otherwise representing claimants or respondents in no-fault arbitration proceedings.

3. The current Rule 10(a) provides for the disqualification as arbitrators of persons that have "a financial or personal conflict of interest, whether actual or potential."

4. In recent years, the Standing Committee has seen increasing numbers of requests to disqualify members of an arbitration panel or the selected arbitrator on grounds that the person or her law firm, in other cases, has represented claimants with claims against the respondent insurer or self-insured entity, or have represented the respondent insurer or self-insured entity.

5. In three cases, the requests to disqualify a no-fault arbitrator have been taken to district court in the form of motions to remove the arbitrator. In each of those cases, the district court ordered removal after the Standing Committee had affirmed the appointment.

6. In *Kinder v. State Farm Mutual Automobile Insurance Company*, Hennepin County District Court File No. CT-97-3037, Memorandum and Order of March 18, 1999 (attached as Exhibit B), the district court granted a motion to remove as potential no-fault arbitrators two attorneys who had represented other auto accident claimants against the respondent insurance company. The court reasoned, in part, that removal of these claimants' attorneys was necessary in fairness because an attorney whose

firm represented the respondent insurance company in the subject arbitration had been disqualified. Thereafter, Rule 10(a) was amended to modify the decision in *Kinder* by providing that:

> The following facts, in and of themselves, do not create a prescription of bias or conflict of interest: that an attorney or the attorney's firm represents auto accident claimants against insurance companies, including the insurance company which is the respondent in the pending matter; that an attorney or an attorney's firm represents or has represented insurance companies.

7. In *Mahavong v. Allstate Property and Casualty Insurance Company*, Stearns County District Court File No. 73-CIV-08-5655, Order and Memorandum of June 9, 2008 (attached as Exhibit C), the district court granted the motion to remove as arbitrator an attorney whose firm represented the respondent insurance company in other matters, though not in the subject arbitration case. The court reasoned that, as a partner in the firm, the attorney had a financial interest in representation of the insurance company.

8. In *Cochran v. Metropolitan Council*, Hennepin County District Court File No. 27-CV-08-31801, Order of February 9, 2009 (attached as Exhibit D), the district court granted a motion to remove as arbitrator an attorney whose firm had other cases pending against the Council, a self-insured governmental agency. The court reasoned in part that the provisions of Rule 10 (that an attorney is not disqualified by representing other claimants against the respondent insurance company) did not apply to a self-insured respondent.

9. In March 2008, the Standing Committee appointed a subcommittee to review Rule 10 in light of *Mahavong*. The work of that subcommittee was later expanded to consider *Cochran*. The subcommittee's proposed amendments to the Rule were discussed at meetings of the full Standing Committee in August and October 2009. The Standing Committee unanimously approved the amendments proposed in this petition to:

(a) Reformat Rule 10 to divide current subdivision (a) into two parts: subdivision (a) to deal with qualifications of arbitrators and subdivision (b) to deal with conflicts of interest.

(b) Expand the conflict of interest subdivision (b) to include reference to respondents who are "self-insureds", addressing the issues raised in *Cochran*, and to include conflicts that arise from relationships with medical providers.

(c) Change current subdivision (b) to subdivision (c) and to clarify the language concerning the continued eligibility of attorneys who are retired or whose practice has changed.

10. It is the conclusion of the Standing Committee that the proposed amendments will clarify the conflict of interest rules and are necessary to reduce the disqualification of arbitrators in some circumstances.

Dated: _____

The Standing Committee on No-fault Arbitration

By _____
Sam Hanson, Chair

Milavetz Gallop Milavetz
Attorneys At Law

January 7, 2010

Gregory S. Malush
gmalush@milavetzlaw.com

Mr. Frederick K. Grittner
Clerk of the Appellate Courts
25 Dr. Rev. Martin Luther King Blvd.
St. Paul, MN 55155

Re: Proposed Amendments to MN No-Fault Arbitration Rules

Dear Mr. Grittner:

Enclosed please find twelve (12) copies of my letter in opposition to some of the changes on the proposed amendments to the Rules of Procedure for No-Fault Arbitrations underneath Administrative Order ADM-09-8011.

I am in support of adding insurance companies or self-insureds as it is now addressed in Rule 10, sub. b. I myself was removed as an arbitrator in the matter of *Coty v. Metropolitan Council*, Hennepin County District Court File No. 27-CV-09-10998 in an order from the Honorable Judge Deborah Hedlund dated June 30, 2009. This was an order similar to the *Cochran v. Metropolitan Council* order cited in the Committee Comment to Rule 10 Amendment.

I have a concern with the last sentence in Rule 10, sub. b, which reads, "It is a conflict of interest if a provider whose bills are in dispute has provided expert testimony on behalf of a client of the arbitrator within the past year or if the arbitrator anticipates calling the provider as an expert witness in any pending matter."

My first concern is what is the definition of "has provided expert testimony...," or, "calling the provider as an expert witness in a pending matter?"

I am an attorney with Milavetz, Gallop & Milavetz, P.A., and we have a personal injury practice and we also have a workers' compensation practice.

I personally do not handle workers' compensation cases, but two attorneys in our office do. In the workers' compensation process, doctors provide opinions in the form of expert reports or letters all the time that are used in lieu of live testimony. When an injured worker reaches MMI a letter is provided by the doctor explaining why they've reached MMI. Usually in a workers' compensation hearing, the reports of the doctors are used in lieu of expert testimony at those hearings. In the same light, our law firm must file at least 30-50 no-fault arbitrations a year between all of our attorneys and in most of those arbitrations we provide letters from different treating physicians that are being used in lieu of live expert testimony. As you are aware, it is a very rare occasion where a doctor will show up to testify about his/her report in either a workers' compensation hearing or in a no-fault arbitration.

In the same light, when I do a high-low binding or a binding arbitration I rarely use expert depositions, we usually use the expert report in place of actual deposition testimony or live testimony. The point of the binding arbitration is to reduce the client's costs. Doing a deposition for a binding arbitration would increase the client's costs between $1,000.00 - $2,500.00 depending on the cost of the doctor's time and the deposition transcript.

My question is, what is expert testimony? Do the things I just mentioned above qualify as expert testimony? Does that mean every time a workers' compensation doctor provides a report regarding a permanent partial disability, an R33 for permanent or temporary restrictions, or a letter regarding if an injured worker has reached MMI, is that expert testimony?

That is where I request clarification. The way the Rule is written, it's an open question and it will lead to further litigation on that point.

The next thing that will come into play is what do the attorneys need to do then? What if I get a report from a treating orthopaedic physician from TRIA Orthopaedics on a broken arm in an automobile accident and I attach that to a demand letter. I don't believe that is expert testimony and I would like clarification on that. If I put that case into suit however, I may or may not be calling that doctor in the next year, but I'll have to assume I will. That would fall within the Rule.

Are you asking all of the law firms that handle personal injury cases to keep a list of all the doctors they've gotten expert reports from and keep a graph of which ones we've used in no-fault arbitrations, workers' compensation hearings, or binding arbitrations? Every time a report comes in the attorney is going to have to add it to a master list to determine whether or not that doctor may be called for testimony or if a report from that clinic or doctor has in the last year been used in a no-fault arbitration or some other form of binding arbitration.

I have a problem with the Rule because it is not clear. Because it is not clear it will lead itself to more interpretation by different judges throughout the State of Minnesota.

This Rule cannot be put forward the way it is, it must be cleared up and there must be some black letter law on what "expert testimony" means and what it encompasses.

Further, we will need guidance from you as to what expert testimony is so we can create charts on which doctors' reports have come in, from what clinic, and the possibility the case might go to trial within the next year. We also need clarification on whether or not when those reports are used in lieu of live expert testimony or depositions in no-fault arbitrations, another form of binding arbitration, or workers' compensation matters, if that qualifies as expert testimony.

Until those rules are clarified and a true definition is attached to them, I don't see how the Court can approve these changes.

Sincerely submitted,

MILAVETZ, GALLOP & MILAVETZ, P.A.

Gregory S. Malush

GSM:jlf

STATE OF MINNESOTA

IN SUPREME COURT

ADM-09-8011

COMMENT ON PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE FOR NO-FAULT ARBITRATION

I am an attorney who has been practicing plaintiff's personal injury in western Wisconsin and southeastern Minnesota for the last eighteen years. The last sentence of paragraph b. concerns me as it relates to the term "expert witness". I would ask that clarification of who is considered an "expert witness" be included in the comment section of the new rule to clarify that an expert witness does not include treating physicians. This would be consistent with the treatment of treating physicians pursuant to the expert disclosure requirements of Rule 26 of the Rules of Civil Procedure because a treating physician's testimony is not "acquired or developed in anticipation of litigation or for a trial". Minn. R. Civ. P. 26.02(e). See also *Fielden v. CSX Transp., Inc.*, 482 F.3d 866, 869 (6th Cir. 2007)("Rule 26(a)(2)(B) by its terms provides that a party needs to file an expert report from a treating physician only if that physician was 'retained or specially employed to provide expert testimony'").

If the Rule were to apply to treating physicians, it would exclude virtually all practicing plaintiff's lawyers in the out-state practice areas. In Rochester, for example, the Mayo Clinic treats 70-80% of No-Fault Arbitration claimants. It is important to recall that the Mayo Foundation owns not only the Mayo Clinic, but the Austin Medical Center in Austin, Naeve Hospital in Albert Lea, Immanuel St. Joseph's in Mankato, and the regional health clinics in many local cities throughout southern Minnesota, northern Iowa and western Wisconsin. If the term "expert" includes treating physicians, it would prevent anyone who represents plaintiffs in

in southeastern Minnesota from serving as a neutral. In the past year, I would have been disqualified from each and every No-Fault Arbitration on which I served as the neutral. Furthermore, on each of the panels that I have seen in the past year, I would estimate two to three of the existing panelists would be disqualified.

I believe this can be remedied with a simple comment to the Rule which would state, "Expert for purposes of paragraph b. does not include treating physicians".

I appreciate the opportunity to comment on the proposed rule changes and thank you for your consideration.

Dated: January 11, 2010

PATTERSON DAHLBERG

By: _____

Paul R. Dahlberg, #228217
330 South Broadway
Rochester, MN 55904
p.dahlberg@pattersondahlberg.com
(507) 424-3000

SCHWEBEL GOETZ & SIEBEN

ATTORNEYS AT LAW

A PROFESSIONAL ASSOCIATION

January 20, 2010

AD M-09-8011

Frederick K. Grittner
Clerk of Appellate Courts
305 Minnesota Judicial Center
25 Dr. Rev. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

Dear Mr. Grittner:

I am writing in response to the Supreme Court's invitation to comment on the proposed amendments to the No-Fault Arbitration Rules. I very much appreciate the opportunity to comment on these rules.

I have previously served as a member of the No-Fault Standing Committee and am well familiar with the rules and their development over time, including arbitrator conflict rules. It is my understanding that the Standing Committee has proposed changes to Rule 10B and I am writing to express my concern regarding the last sentence of the rule, which provides "It is a conflict of interest if a provider whose bills are in dispute has provided expert testimony on behalf of a client of the arbitrator within the past year or if the arbitrator anticipates calling the provider as an expert witness in any pending matter."

As the Court may recall, the Standing Committee and the Supreme Court have taken steps over the years to modify the rules so as to achieve the twin goals of assuring as large an arbitrator pool as possible of individuals familiar with the No-Fault Act and, at the same time, assuring a fair arbitration process. The Court has previously approved arbitration rule changes which increased the number of prospective arbitrators submitted to the parties, and has, for example, required a familiarity with the No-Fault Act for persons serving as arbitrators.

At the same time, I understand it is important to be certain that arbitrators do not appear to have any bias or conflict of interest. In that regard, the rule wisely prohibits counsel whose firm regularly does business with the respondent insurer from serving as an arbitrator. However, I believe that the last sentence of the rule is over-broad and will likely produce a great deal of litigation with insurers attempting to disqualify arbitrators. The reason for this is that the proposed rule's last

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sentence disqualifies an arbitrator who anticipates that he or she may call the provider as "an expert witness in any pending matter" or who has provided expert testimony on behalf of the client of the arbitrator within the past year.

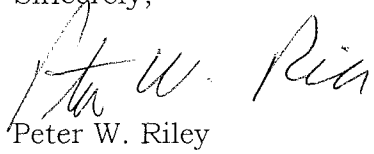
This rule would have the effect of disqualifying me as an arbitrator in essentially any case with a plaintiff who received neurological or orthopedic services. This is true because most orthopedists practice in one of the large orthopedic practices in the Twin Cities area, and most neurologists are either members of the Minneapolis Clinic of Neurology or the Noran Neurological Clinic. If "provider" is interpreted to mean the clinic, I will have to recuse myself as it would be impossible to determine which doctor from the Noran Clinic was the treating doctor and since I represent many patients who have treated with neurologists at the Minneapolis Clinic and Noran Clinic, and with virtually every orthopedist in town, I would be disqualified. I believe this would be true of most plaintiffs' counsel in the Twin Cities area.

The situation is even more acute in out-state Minnesota. There, there are relatively few physicians and most of them belong to large clinics and this would thus mean that there would be few if any arbitrators who would be allowed to serve out-state.

I would urge that the Court redact the last sentence from the proposed rule. I believe this is important because the system has functioned well for many years without any evidence that plaintiffs' attorneys and defense attorneys operating under the existing rules cannot fairly and impartially decide cases.

Thank you for allowing me to submit my comments.

Sincerely,



Peter W. Riley
Direct Dial Number: (612) 344-0425
priley@schwebel.com

PWR:ska

MINNESOTA
ASSOCIATION FOR
JUSTICE

ADM-09-8011

February 9, 2010

Frederick K. Grittner
Clerk of Appellate Courts
25 Dr. Rev. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Mr. Grittner:

The Standing Committee for Administration on No-Fault Arbitration filed a petition on Nov. 30, 2009, recommending amendments to the Rules of Procedure for No-Fault Arbitration. The amendments propose changes to Rule 10b. The proposed changes include a focus on conflicts of interest. After reviewing the proposed changes, it is our position that the changes are overreaching at best and, if read literally, would prevent significant portions of the bar from serving in many no-fault arbitration matters.

The purpose of conflict rules is to ensure not only the actual impartiality of the arbitrator, but also the appearance of impartiality. The proposed rules are an apparent attempt to address impartiality. While this begs the question of whether a problem exists under the current rules, the proposed rules place form over substance and find conflict where none exists.

The current rule regarding conflict states in part:

Rule 10. Qualification of Arbitrator and Disclosure Procedure

a. . . .

> No person shall serve as an arbitrator in any arbitration in which he or she has a financial or personal conflict of interest, whether actual or potential. Under procedures established by the Standing Committee and immediately following appointment to the panel, each member shall be required to disclose any circumstances likely to create a presumption or possibility of bias or conflict that may disqualify the person as a potential arbitrator.
>
> . . . .

Minnesota No-Fault, Comprehensive or Collisions Damage Automobile Insurance Arbitration Rules, Rule 10(a).

706 Second Avenue South .140 Baker Building. Minneapolis, MN 55402 .Tel (612)375-1707. (800) 898-6852 . Fax (612) 334-3142 . www.mnaj.org

The present rule requires disclosure of a relationship that exists between the arbitrator and a party, involved counsel, or medical providers which have bills in dispute. If a potential arbitrator receives a financial benefit from a party, counsel, or an involved medical provider, then that fact should be disclosed. The Standing Committee attempted to address and clarify this point with the proposed changes.

A direct conflict should always result in an arbitrator's withdrawal. An arbitrator should also always withdraw when the appearance of a conflict puts into question the impartiality of the arbitrator. The proposed rule, however, overreaches its objective and would create absurd results by substantially reducing the ranks of qualified arbitrators and, in many cases, eliminating the plaintiff's bar, the defense bar, or both from hearing a particular case.

The proposed amendment first attempts to create a conflict between a potential arbitrator and an expert witness:

> It is a conflict of interest if a provider whose bills are in dispute has provided expert testimony on behalf of a client of the arbitrator within the past year or if the arbitrator anticipates calling the provider as an expert witness in any pending matter.

The implication is that an expert witness is being paid for his testimony, not his time. It makes it clear that an "Independent Medical Examination" is not independent. The defense bar would, in large part, be prevented from hearing any arbitration involving a disputed bill from Minneapolis Clinic of Neurology, Summit Orthopedics, Allina Health System, HealthPartners, Mayo Clinic, and a vast number of other medical clinics in Minnesota from which the ranks of independent medical examiners are routinely filled. The plaintiff's bar would no longer be able to hear cases involving the vast majority of major clinics where their clients' family physicians, neurologists, and surgeons receive treatment. The probability of calling a doctor from one of those clinics to testify is significant and would require disqualification under the proposed rule.

Keep in mind that the rule states that conflict is created if the expert testimony was provided "on behalf of the client of the arbitrator within the past year." This would mean that any defense attorney representing American Family would be forced to inquire as to all experts who testified on behalf of American Family in the past year. This would be a vast number of experts and the inquiry process would be burdensome.

There is other troubling language within the proposed new rule:

> It is a financial conflict of interest if, within the last year, the appointed arbitrator or the arbitrator's firm has represented the respondent or respondent's insureds in a dispute for which respondent provides insurance coverage.

This rule is an attempt to disqualify an attorney who has been hired by an insurance company to represent the insurance company in a direct action or to represent the insurance company's insured. This is a direct financial conflict and the reasoning is sound. We do not believe it was intended to be directed toward claimants' attorneys. A plain reading, however, would disqualify almost the entire plaintiffs bar from serving as no-fault arbitrators. In the no-fault arbitration

setting, a claimant's attorney represents "respondent's insured in a dispute for which respondent provides insurance coverage." For example, in a claim against State Farm for no-fault benefits, claimant is State Farm's (respondent) insured. State Farm is providing insurance coverage. Thus claimant's attorney involved in an arbitration against State Farm would be disqualified from hearing any case involving State Farm for the next year. While this reading conflicts with the plain language of the current rule, it will result in confusion.

It is doubtful that the Standing Committee intended the broad and sweeping disqualifications which will result with a plain reading of the proposed amendment. We urge you to consider the significant ramifications of this rule and reject the proposed changes as they are written.

The intent of the Standing Committee was to disqualify arbitrators when a **financial** conflict of interest exists. This intent can be accomplished in the latter paragraph with the following change of language:

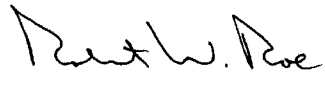
> It is a financial conflict of interest if, within the last year, the appointed arbitrator or the arbitrator's firm has been hired by the respondent to represent the respondent or respondent's insureds in a dispute for which respondent provides insurance coverage.

This addresses the original intent of the Standing Committee to disqualify a potential arbitrator for a financial conflict of interest.

Finally, the use of the term "referral" is troubling. In the medical context, referral is used to define the action of recommending a patient to another medical professional. In the legal context, particularly in personal injury matters, the term referral carries significant undertones. Referrals between attorneys are governed by our Rules of Professional Conduct and often have financial implications. The use of the word referral in the proposed rule implies an unethical relationship between the attorney and the medical professional. This implication is certainly unintended but real.

Further thought and consideration are necessary so that a rational, practical rule can be adopted and implemented. While public comments have not been requested, we would be happy to provide a representative to answer any questions. Thank you.

Sincerely,



Michael A. Bryant
MNAJ President

Robert W. Roe
MNAJ No-Fault Chair

William J. Schmitz
MNAJ No-Fault Co-Chair