

RULES FOR NEBRASKA
ARBITRATION OF ATTORNEY-CLIENT
FEE DISPUTES

PURPOSE

- 1.1 The purpose of Nebraska Legal Fee Arbitration Plan is to provide for the expeditious resolution through voluntary arbitration of disputes involving fees charged by attorneys.
- 1.2 Additionally, the purpose is to provide for voluntary arbitration of fee disputes between attorneys in their professional capacity and physicians, stenographers, consultants and expert witnesses.

ADMINISTRATION

- 2.1 The President of the Nebraska State Bar Association (“NSBA”) shall appoint one Administrator from each Supreme Court Judicial District to administer the arbitration of fee disputes within the District. The Administrator shall be an Active member in good standing of the NSBA and shall serve a term of two years.
- 2.2 The Administrators shall report to and be supervised by the President of the NSBA or his or her designee who shall keep and maintain the necessary forms and records of proceedings and decisions in each district and shall oversee the efficient administration and operation of the Arbitration Plan.

JURISDICTION

- 3.1 The Arbitration Plan shall be voluntary for all parties. The Arbitration Plan shall have jurisdiction over disputes described in Rule 1.1 and 1.2 above, arising within the State of Nebraska involving any attorney who is licensed to practice law in the State of Nebraska. Provided, however, that the Plan shall not have jurisdiction over (a) disputes in which a lawsuit has been filed over which the court possesses jurisdiction to set an attorney fee, and (b) disputes in which the client has alleged a violation of the Code of Professional Responsibility.

INITIATION OF PROCEEDINGS

- 4.1 Arbitration proceedings shall be initiated by a written Petition on a designated form. Petition forms shall be maintained at the NSBA office in Lincoln, by the District Administrators of the Plan and by the designee of the NSBA President charged with Plan supervision. The Petition shall be filed with the NSBA Administrative Office in Lincoln and shall be accompanied by a \$10.00 filing fee payable to the NSBA which shall be refunded if the Respondent does not consent to arbitration.

- 4.2 The Petition invoking fee arbitration should clearly and briefly state the facts of the fee dispute and the names and addresses of the parties to the dispute as well as other persons who may be directly affected by the outcome.
- 4.2.a. The Petition shall include or be accompanied by the following: (1) a statement by Petitioner that he agrees to be bound by the decision of the Fee Arbitration Panel; (2) a statement that Petitioner has made a good faith effort to resolve the dispute with Respondent before filing the Petition; (3) a statement that the dispute is not the subject of presently pending litigation nor the subject of an adjudicated fee award.

PROCESSING THE COMPLAINT

- 5.1 Each Petition filed shall be forwarded to the Administrator of the Judicial District which the legal services at issue were rendered. Upon receipt, the Administrator shall review the sufficiency of the Petition and shall determine if the dispute appears to be within the jurisdiction of the Arbitration Plan.
- 5.2 If the Administrator determines from the face of the Petition that there is no reasonable grounds therefor, he may dismiss the Petition for Arbitration (without prejudice to petitioner's other legal remedies) with no further action. Provided, however, that if the petition is dismissed for failure to include the information required in Section 4.2 or 4.2A the Petitioner shall be given the opportunity to re-submit the Petition with the required information. If the Administrator determines that the Petition is viable, bona fide and within the Plan jurisdiction, he may thereafter in his discretion endeavor to resolve the dispute informally by communicating directly with Petitioner and Respondent. If the dispute is resolved informally, the Petition shall be deemed withdrawn and the Petitioner shall be so advised in writing.
- 5.3 Failing informal resolution, a copy of the Petition shall be forwarded to Respondent for his reply and for his agreement to be bound by the fee arbitration decision.
- 5.4 If Respondent fails or refuses to agree in writing to be bound by the decision of the Arbitration Panel within thirty (30) days, the Administrator shall notify Petitioner and the Petition will be dismissed. If the Respondent agrees to binding arbitration, the Administrator shall refer the dispute to the Arbitration Panel.

SELECTION OF ARBITRATION PANEL

- 6.1 As soon as practicable, but at least within thirty (30) days after the Respondent's consent to binding arbitration is received, the District Administrator shall submit to the parties a list of potential arbiters, who insofar as is possible, shall be drawn from a list of laypersons and licensed lawyers within the district who have volunteered to serve on the Arbitration Panel and have consented to arbitrate the dispute.

- 6.2 In disputes involving more than \$2,500.00, unless otherwise agreed, the Administrator shall submit to the parties a list of six attorneys and three laypersons. The parties, through exercise of alternating challenges, shall arrive at an Arbitration Panel consisting of two attorneys and one layperson. The attorney shall be entitled to exercise the last strike with respect to selection of the lay arbiter and the client (or non-attorney participant) shall be entitled to exercise the last strike with respect to selection of the attorney arbiters.
- 6.3 In disputes involving no more than \$2,500.00, the District Administrator shall submit to the parties a list of three attorneys. The parties, through exercise of alternating challenges, shall arrive at a Panel consisting of a sole attorney arbiter. The client (or non-attorney participant) shall be allowed to exercise the last strike with respect thereto.
- 6.4 It shall be the obligation of any potential lay or attorney arbiter who has been asked by the Administrator to arbitrate a dispute to disclose to the Administrator any conflict of interest or other reason why he or she cannot ethically or conscientiously serve.
- 6.5 In disputes involving over \$2,500.00, one member of the Arbitration Panel shall be designated by the District Administrator as Chief Arbiter.
- 6.6 It shall be the duty of the Chief Arbiter (or sole attorney arbiter) to give the parties reasonable notice of the date, time and place of hearing. The hearing shall be held within thirty (30) days of the selection of arbiters. The parties, however, may mutually agree to waive a hearing or to defer hearing to a mutually agreeable time more than thirty (30) days after selection of the arbiters.
- 6.7 The notice of hearing shall notify the parties: (1) that each party has the right to be represented by counsel at his or her own expense at the hearing; (2) of their right to present witnesses and/or documentary evidence at the hearing in support of their positions; and (3) the right at their own expense to have a record of proceedings made.

THE ARBITRATION HEARING

- 7.1 The Uniform Arbitration Act, R.R.S. 25-2601 et seq., except where inconsistent with the rules set forth herein, shall apply to the arbitration proceeding.
- 7.2 On the hearing date, the Arbitration Panel shall meet, take testimony and receive evidence and have a complete and full hearing on the matter. The parties to the arbitration are entitled to be heard, to present evidence and to cross examine witnesses appearing at the hearing.
- 7.3 Upon request of a part to the arbitration for good cause, or upon his own determination, the Chief or sole Arbiter may adjourn or postpone the hearing.

- 7.4 The Chief or sole Arbiter shall preside at the hearings. He may request opening statements and may prescribe the order of proof. He shall be the judge of the relevance and materiality of the evidence offered and shall rule on questions of procedure. He shall exercise all powers relating to the conduct of the hearing. Conformity to legal rules of evidence shall not be necessary.
- 7.5 If any party to an arbitration who has been notified fails to appear at the hearing, the Chief Arbiter may either postpone the hearing or proceed with the hearing and determine the controversy upon the evidence produced, notwithstanding such failure to appear.
- 7.6 Any party may have the hearing reported at his own expense, but if he does so, he must provide a copy free of charge to the Arbitration Panel. Further, in such an event, any other party to the arbitration shall be likewise entitled to a copy of the transcript at his own expense by arrangements made directly with the reporter.

AWARD

- 8.1 Any award rendered may be enforced by any court of competent jurisdiction and there shall be no appeal, except as provided in R.R.S. 25-2613 of the Uniform Arbitration Act.
- 8.2 A decision of an Arbitration Panel shall be rendered promptly after the close of the hearing, but in no event shall the decision be rendered more than thirty (30) days following closing of the hearing.
- 8.3 The arbitration decision shall be made by a majority of the Arbitration Panel. The award shall be in writing and signed by the members concurring therein. It shall state the amount of the award, if any, and the terms of payment, if applicable.
- 8.4 The decision shall be forwarded to each party to the arbitration. Copies shall be sent to the District Administrator and to the secretary of the Committee on Alternate Dispute Resolution charged with Plan supervision.
- 8.5 If a majority of the Arbitration Panel cannot agree on a decision, the matter shall be re-submitted, de novo, to a new panel.

CONFIDENTIALITY

- 9.1 All records, documents, files, proceedings and hearings pertaining to the arbitration of any fee dispute under these rules shall be confidential, and shall not be open to the public or any person not involved in the dispute.