

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 five 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 no-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 in the last year; and (5) arbitrators will be required to recertify 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. Under procedures established by the Standing Committee and immediately following appointment to 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. Every arbitrator shall supplement the disclosures as circumstances require. 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 been hired by the respondent to represent the respondent or respondent's insureds in a dispute for which the respondent provides insurance coverage. It is a financial conflict of interest if the appointed arbitrator 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.

(c) If an arbitrator has been certified and has met the requirements of subdivision (a) for the past five years but becomes ineligible for certification under Rule 10(a) 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 licensure or practice change if the following requirements are satisfied:

The arbitrator completes and files an annual No-Fault Arbitrator Recertification form which certifies that:

(1) He or she is an attorney licensed to practice law in Minnesota and is in good standing or a retired attorney or judge in good standing;

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

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

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

(Amended effective December 1, 1995; amended effective September 7, 1999; amended effective August 5, 2003; amended effective September 10, 2003; amended effective January 1, 2008; amended effective June 1, 2010; amended effective March 1, 2016.)

Comment - 2008

In order to maintain a well-qualified and expert panel of arbitrators, as well as keep a sufficient number of arbitrators from outside the Twin Cities metropolitan area, the Committee finds it

necessary to allow for a second basis upon which to qualify as a No-Fault Arbitrator. These secondary qualifications allow seasoned arbitrators to remain on the panel while not penalizing those who choose to slow down their practice. It also allows arbitrators in smaller communities to meet the level of expertise we require who, because of the nature of their practice, may not meet the percentage requirement of Section (a).

Committee Comment - 2010 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 Amendments will limit the number of arbitrators, especially in certain out state areas. But the Amendments are necessary to clarify the law and stem the tide of parties seeking removal of arbitrators in the district court. The Amendments also establish, for the first time, that a conflict exists if an arbitrator who is to rule on a disputed bill for a medical provider is aware that the provider has made referrals to the arbitrator within the last year.

Standing Committee Comments (2015)

The conflict-of-interest disclosure requirements in Rule 10 have been broadened to promote accountability and fairness. To ensure prompt and inexpensive arbitration with the limited number of available no-fault arbitrators, the disclosure requirements are not as broad as the requirements of the Uniform Arbitration Act. See Minnesota Statutes, section 572B.12, paragraph (a).

Mandatory no-fault arbitration is different from voluntary arbitration governed by the Uniform Arbitration Act. No-fault arbitration is intended to promptly resolve relatively small claims for insurance coverage. See Rule 1 and Minnesota Statutes, section 65B.42. Unlike arbitrators appointed under the Uniform Arbitration Act, no-fault arbitrators are approved by the Standing Committee and the Supreme Court, based on their willingness and experience with no-fault matters. This necessarily limits the number of no-fault arbitrators.

A change is made in Rule 10(a) to promote consistency between 10(a) and 10(c) in the CLE requirement.

The removal of the phrase, "is aware," in Rule 10(b), adds a greater responsibility to ensure that a complete disclosure is made, as well as is now prohibited as a financial conflict.

The inclusion of "licensure" in Rule 10(c) provides a clear definition of what constitutes a retired arbitrator and when the five-year limit in Rule 10(c) begins to run.