

Health Care Arbitration Agreements: Five Ways to Improve Enforceability

Common law judicial doctrines in almost every state discourage and restrict arbitration agreements covering personal injury or death claims, write **Manton G. Grier** and **Marcus A. Manos** of **Nexsen Pruet**. They see this point particularly regarding admission contracts to nursing homes or assisted-living facilities, which have superior bargaining power and may offer services on a “take it or leave it” basis. The Federal Arbitration Act (FAA), on the other hand, encourages arbitration of claims.

“Because the arbitration laws stack the deck against a facility, there is no foolproof way to draft an arbitration agreement; what may be found enforceable by one judge may be found unenforceable by another,” they write. “With so many defenses available to plaintiffs, a bullet-proof agreement just doesn’t exist. Nevertheless, there are five ways a facility can improve the odds that a court will enforce the agreement.”

Read the article.