

Select State Laws II: Liability Reform

	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Alabama	<p>Arbitration is permitted if both parties agree in writing. Arbitration agreements are valid, binding, irrevocable, and enforceable, except as otherwise permitted in contract law. Both parties shall select one competent and disinterested arbitrator and the two arbitrators shall select a third arbitrator. The arbitrators shall follow the rules and procedures set forth by the American Arbitrators Association. Their written decision is binding. Each party pays the fee for their own arbitrator and splits the expenses for the third. (Code. Of Ala. § 6-5-485)</p>	<p>Notwithstanding any provision of the Alabama Rules of Evidence to the contrary, if the health care provider whose breach of the standard of care is claimed to have created the cause of action is not certified by an appropriate American board as being a specialist, is not trained and experienced in a medical specialty, or does not hold himself or herself out as a specialist, a "similarly situated health care provider" is one who meets all of the following qualifications: (1) Is licensed by the appropriate regulatory board or agency of this or some other state. (2) Is trained and experienced in the same discipline or school of practice. (3) Has practiced in the same discipline or school of practice during the year preceding the date that the alleged breach of the standard of care occurred. (Code of Ala. § 6-5-548(b))</p> <p>Notwithstanding any provision of the Alabama Rules of Evidence to the contrary, if the health care provider whose breach of the standard of care is claimed to have created the cause of action is certified by an appropriate American board as a specialist, is trained and experienced in a medical specialty, and holds himself or herself out as a specialist, a "similarly situated health care provider" is one who meets all of the following requirements: (1) Is licensed by the appropriate regulatory board or agency of this or some other state. (2) Is trained and experienced in the same specialty. (3) Is certified by an appropriate American board in the same specialty. (4) Has practiced in this specialty during the year preceding the date that the alleged breach of the standard of care occurred. (Code of Ala. § 6-5-548(c))</p>	No	<p>Medical malpractice: within two years of the act or omission giving rise to the cause of action, unless the cause of action was or could not have reasonably been discovered within the two years. In such cases, an action must commence within six months of its discovery, with a maximum limit of four years from the time of the act / omission giving rise to the action.</p> <p>Minors: For minors under 4 years of age, statute does not begin to run until age eight. (Code. Of Ala. § 6-5-482)</p>

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Alaska	<p>Arbitration is permitted in contracts, so long as it is not a condition of providing services. The patient has thirty days to reconsider his decision to arbitrate. (0955.535)</p> <p>If parties do not agree to arbitration, the court must appoint a three-person advisory panel after the complaint is filed to determine the following: (1) why the claimant sought medical care, (2) was a correct diagnosis made, if not what was incorrect, (3) was the treatment or lack of treatment appropriate, if not what was inappropriate, (4) was the claimant injured (5) if yes, what was the nature or extent of the injury (6) what specifically caused the injury, (7) was the injury caused by unskillful care, (8) if a medical injury did not occur, what would have been the likely outcome of the medical case. The panel's determination must be submitted in writing, which may be submitted as evidence. Any member of the panel may submit a concurring or dissenting opinion. Any panelist may be called as an expert witness. (Alaska Stat. § 09.55.536)</p>	<p>In an action based on professional negligence an individual may not testify as an expert unless the witness is a professional who is licensed in this state or in another state or country; trained and experienced in the same discipline or school of practice as the defendant or in an area directly related to the matter at issue; and certified by a board recognized by the state as having acknowledged expertise and training directly related to the particular field or matter at issue. (Alaska Stat. § 09-20-185)</p>	No	<p>Personal injury or death: within two years of the act or omission.</p> <p>Minor or incompetent by reason of mental illness or disability: statute is tolled for a maximum of two years after reaching the age of majority, or the disability is lifted. The statute is tolled until a minor's eighth birthday. (Alaska Stat. §§ 09.10.070 and 09.10.140)</p>
Arizona	No provision	<p>Expert testimony is generally required to prove a breach in the standard of care. (A.R.S. 09.55.536)</p> <p>To qualify as an expert in a medical liability cause of action an expert must be licensed in the same profession as the defendant, maintain board certification in the same specialty as the defendant if applicable, and devote a majority of his or her professional time to the active clinical practice or instruction of students in the same health profession as the defendant for the year immediately preceding the occurrence giving rise to the lawsuit. (A.R.S. 12-2604)</p>	<p>Claimant or claimant's attorney must certify in writing when a claim is filed whether or not an expert is necessary to prove the defendant's liability. If the claimant determines it is necessary, they must file a preliminary expert opinion affidavit. If the claimant certifies it is not necessary, the defendant may file a motion requiring the claimant to provide a preliminary expert opinion affidavit. (A.R.S. 12-2602)</p>	<p>Medical malpractice: within two years of the act or omission that gave rise to the cause of action. (Accrual is judicially defined as that date when the plaintiff knew or by the exercise of reasonable diligence should have known of the defendants' conduct. Walk v. Ring, 202 Ariz. 310, 44 P.3d 990 (Ariz. 2002)).</p> <p>Minors, mentally incompetent, and imprisoned: statute begins to run at the age of majority or when the disability is lifted. (ARS §§ 12-542 and 12-502)</p>

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Arkansas	No provision	In any action for medical negligence, the plaintiff must establish negligence through expert testimony provided by a medical care provider in the same specialty as the defendant. (Ark. Stat. Ann. § 16-114-206(a))	Within 30 days after the complaint is filed, plaintiffs must file an affidavit of merit, signed by an expert in the same specialty as the defendant. The affidavit must state with particularity: the expert’s familiarity with the applicable standard of care, the expert’s qualifications, the expert’s opinion as to how the applicable standard of care has been breached, and the expert’s opinion as to how the breach resulted in the injury or death. Failure to file affidavit of merit shall result in dismissal of the complaint. (Ark. Stat. Ann. § 16-114-209) (Ruled unconstitutional Summerville v. Thrower 2007 AR No. 06-501)	<p>Medical malpractice: within two years of the wrongful act.</p> <p>Discovery of a foreign object: within one year of its discovery or when it could have reasonably been discovered.</p> <p>Minor under age 9 at the time of the wrongful act: before his/her eleventh birthday, or within two years from the act, omission, or failure unless no medical injury is known or could have been reasonably discovered prior to the minor’s eleventh birthday, then the minor shall have two years after the date in which such injury could have reasonably been discovered, or until the minor’s 19th birthday, whichever is earlier. (Ark Stat. Ann. § 16-114-203)</p>
California	Arbitration is not mandated but is permitted.	Expert testimony is required to establish a prima facie case of medical malpractice, except where the fact finder can infer negligence from the facts. To qualify as an expert, the witness must have the professional knowledge, learning and skill of the subject under inquiry sufficient to qualify him to speak with authority on the subject, and must be familiar with the standards required of physicians under similar circumstances.	No	<p>Medical malpractice: within one year from discovery, with a maximum of three years from the date of the injury.</p> <p>Foreign-object cases: Tolloed to within one year of discovery of the injury, or where one reasonably should have discovered the injury.</p> <p>Minors: within three years from the date of the wrongful act. For minors under the age of six, before the eighth birthday or within three years of the wrongful act, whichever is longer. (Civ. Pro. 340.5)</p>

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Colorado	Arbitration is not mandated but is permitted. (CRS §13-64-403 (2002))	Experts must be licensed to practice in the state and be substantially familiar with the applicable standards of care and practice as they relate to the act or omission which is the subject of the claim on the date of the incident. The court shall not permit an expert in one medical subspecialty to testify against a physician in another medical subspecialty unless the expert shows substantial familiarity between the specialties and that the standards of care and practice in the two fields are similar. The limitations in this section shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment. (C.R.S. § 13-64-401)	A certificate of review must be filed by the plaintiff or his attorney within 60 days after a complaint is served. The certificate must state that an expert was consulted, and the expert is competent to express a medical opinion on the case at issue. Failure to file a certificate will result in dismissal of the claim. (C.R.S. § 13-20-602)	<p>Medical malpractice: within two years of the date when the alleged negligent act took place, and when its cause is known or should have been known. In no case may a claim be brought more than three years after the cause that gave rise to the action is known, unless the act or omission: was knowingly concealed; involved leaving a foreign object in the body; or both the act and injury otherwise could not have been discovered through the reasonable exercise of due diligence.</p> <p>Minors: minors under the age of 6 on the date of the alleged act or omission, must file an action before his or her eighth birthday</p> <p>Mentally incompetent or legally disabled: within two years of the discharge of disability status or within the applicable statute of limitations, whichever is later.</p> <p>Wrongful death: within two years of the date of death (CRS §§ 13-80-102.5, 13-8-103)</p>

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Connecticut	Arbitration is not mandated but is permitted, with a panel consisting of one attorney and two physicians who review a claim and determine liability. If the panel's report is unanimous, it may be submitted as evidence at trial.	<p>Expert testimony is generally required to prove negligence.</p> <p>Any health care provider may testify as an expert if he or she is a "similar health care provider" or the court determines the expert possesses sufficient training, experience and knowledge as a result of practicing or teaching in a related field of medicine within the last five years. An expert will be considered a "similar health care provider" based on the defendant's qualifications. If the defendant is board certified, the expert must also be board certified. If the defendant is not board certified, the expert must be licensed by Connecticut or another state that has the same or greater qualifications and has been actively practicing for at least five years prior to the incident giving rise to the claim. (Conn. Gen. Stat. § 52-184C)</p>	A plaintiff or his or her attorney must file a certificate with the complaint, stating that the attorney or plaintiff has made a reasonable inquiry to determine that there is a good faith basis for a claim against each of the defendants. Such good faith will be shown to exist if the plaintiff has obtained a written opinion from an expert stating there appears to be evidence of negligence. (Conn. Gen. Stat. § 52-190a)	Medical malpractice: within two years of the date when the wrongful act occurred or was discovered, or should have been discovered. No action may be brought more than three years after the act or omission occurred. (Conn. Gen. Stat. § 52-584)
Delaware	Review panels may be used to review claims and advise the court on whether a breach in the standard of care occurred. The panel is made up of 5 members: 2 health care providers, 1 attorney, and 2 lay persons. Parties may request judicial review of the panel's determination, and the court may reverse any portion found to be based on an error of law or based on unsupported evidence. Any opinion by the panel is admissible as prima facie evidence at trial, but is generally not considered a conclusive opinion. (18 Del. Code § 6803-6814)	<p>Expert testimony is required to establish a deviation from the standard of care, unless the malpractice review panel has found a valid claim of negligence, or where the facts clearly demonstrate a lack of due care. (Title 18 § 6853)</p> <p>No person shall be competent to give expert medical testimony as to applicable standards of skill and care unless such person is familiar with the degree of skill ordinarily employed in the field of medicine on which he or she will testify. (18 Del. Code § 6854)</p>	An affidavit of merit must be signed by an expert witness stating reasonable grounds to believe that the defendant has committed negligence in providing health care. The suit must be dismissed. The expert signing the affidavit must be licensed to practice as of the date of the affidavit, and in the three immediate years preceding the alleged negligent act must have either been treating patients, or in the academic side of medicine, in the same or similar field of medicine if the defendant is board certified. The affidavit is not discoverable or admissible as evidence.	<p>Personal injury or death: within two years of the date of injury. If the injury is not discovered after reasonable due diligence within the two years after the date of injury, the claimant has an additional year to file.</p> <p>Minors under the age of six: within two years of the date of injury, or by the minor's sixth birthday, whichever is later. (18 Del. Code § 6856)</p>

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D.C.	Arbitration is permitted but is not required. Arbitration awards have the effect of a final judgment, but a party may seek a judicial finding. In court, evidence admitted during arbitration is admissible, but cannot be identified as such, nor can the arbitration hearing be identified as the source of the evidence.	Expert testimony is generally required to establish a breach in the standard of care.	No	<p>Medical malpractice: within three years of the date of the injury, or when the plaintiff should have become aware of the injury through the exercise of reasonable due diligence. (DC Code § 12-301)</p> <p>Minors, mentally incompetent, imprisoned: within three years of reaching the age of majority or the discharge of the disability. (DC Code § 12-302)</p>
Florida	<p>Judges may refer cases to non-binding arbitration. (Fla. Stat. § 766.107)</p> <p>Within 120 days after the suit is filed, all parties must attend mediation in person. The time in which mediation must take place may be extended if agreed to by all the parties. (Fla. Stat. § 766.108)</p> <p>An arbitration panel may be used to determine damages. This process is activated following a pre-suit investigation process, which finds reasonable grounds for medical negligence, where the defendant makes an offer of admission of liability, and where both parties agree to submit the determination of damages to the arbitration panel. The cap on non-economic damages applies. (Fla. Stat. §§ 766.106; 766.207 through 766.212)</p>	<p>Expert testimony is required to establish a breach in the standard of care, unless the facts of the case allow an obvious demonstration of negligence to the lay person.</p> <p>Expert testimony must be provided by a licensed health care provider who practices in the same or similar specialty as the defendant. If the defendant is a specialist, the expert must have practiced in the same or similar specialty as the defendant for the past three years in active clinical practice, teaching, or in a clinical research program.</p> <p>If the health care provider is a general practitioner, the expert must have practiced in the same or a similar specialty for the past five years in an active clinical practice, teaching, or a clinical research program. (Fla. Stat. § 766.102)</p>	When a plaintiff files a complaint, he/she must attach a verified expert medical opinion corroborating the existence of a supportable claim. Defendants who contest the claim must file a corroborating expert medical opinion supporting denial of the claim. The expert must meet the same requirements as an expert who testifies in the case. Failure to submit an expert opinion is cause for dismissal. (Fla. Stat. §§ 766.201-766.206; 766.104)	<p>Medical malpractice: within two years of the date when the injury was or should have been discovered. Claims must be filed within four years of the incident serving as the basis for the claim, unless the claimant is a minor or fraud exists.</p> <p>Minors: must file before his/her eighth birthday.</p> <p>Cases of fraud: statute of limitations extended two years from the time the injury was discovered or should have been discovered, but no later than seven years after the incident giving rise to the cause of action.</p> <p>Wrongful death: within two years of the date of death, except where a medical malpractice claim is asserted, and the malpractice limitations are controlling (Fla. Stat. § 95.11)</p>

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Georgia	<p>Arbitration is permitted but not required. Parties may agree in writing to submit a claim to arbitration, however, the arbitrator's decision is binding only if the decision to arbitrate was made after a claim of alleged negligence occurred and after a controversy existed. The judge shall appoint a referee to assist the parties in preparing an arbitration submission. Three arbitrators shall review the case. The decision of the arbitrators is entered into the minutes of the court where the arbitration request was made and has the effect of a final judgment. A party may appeal an arbitrator's ruling, but the Court will consider the ruling to be conclusive as to the facts of the case, unless the conclusion is not clearly supported by the evidence, is fraudulent, or the findings are contrary to law. (OCGA §§ 9-9-61 through 9-9-83)</p>	<p>Expert testimony is required to establish a breach in the standard of care in a medical malpractice action.</p> <p>To testify as an expert, the witness must be licensed in the state of Georgia in the same profession as the defendant, as an M.D., or as a D.O. The expert must also have been licensed at the time the alleged act occurred and have knowledge and experience in the area of specialty in which his/her expert opinion is based. A witness is deemed to have this expertise if he/she has been in active practice in such area or specialty or taught in his or her profession for at least three of the last five years with sufficient frequency to establish an appropriate level of knowledge to perform the procedure, diagnose the condition or render the treatment which is alleged to have been performed negligently.</p>	<p>Complaints alleging professional malpractice must include an affidavit from an expert stating the facts justify a claim of negligence. If this is not filed with the complaint, the case may be subject to dismissal. (O.C.G.A. § 9-11-9.1)</p>	<p>Personal injury or death for medical malpractice: within two years after the injury arising from the negligent act or omission occurred, but no later than 5 years.</p> <p>Minors: same as all other cases including the statute of repose, except minors under the age of five shall have two years from the minor's fifth birthday to bring a cause of action. If a minor was under five when the negligent act or omission occurred, the minor may not file a cause of action after the minor's tenth birthday.</p> <p>Discovery of a foreign object: within one year of discovery (OCGA §§ 9-3-71, 9-3-72, and 9-3-73)</p>
Hawaii	<p>Prior to commencement of a medical tort action in court, a claimant must submit the claim to a medical claim conciliation panel which shall file an advisory opinion with regard to liability and damages. Three members make up the panel: 1 attorney, 1 physician, and 1 chairperson. The panel's decision is nonbinding and is not admissible in court. (HRS 671-11 through 671-20)</p> <p>Hawaii also has a court annexed arbitration program which is mandatory and nonbinding for all civil tort actions when the expectant damages are \$150,000 or less. Either party, however, may elect to bypass the court's arbitration program once the claim has been submitted to the medical conciliation panel. (HRS 671-16.5)</p>	<p>Expert testimony is necessary to establish a prima facie case at trial, unless the facts are conclusive to establish negligence.</p>	<p>No</p>	<p>Medical malpractice: within two years of the injury, or when the claimant should have reasonably been aware of the injury, but in no case more than six years after the occurrence of the alleged negligent act.</p> <p>Minors: If the minor is under six years of age, a claim must be filed within six years of the date of injury, or by the child's tenth birthday, whichever is later. Minors over the age of ten must file within six years from the date of the injury. The statute is tolled where the injury was not discoverable through reasonable due diligence. (HRS 657-7.3)</p>

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Idaho	<p>Arbitration is permitted but not required. (7-901)</p> <p>Informal and nonbinding pre-trial screening panels are mandatory. Hearing Panels are appointed by the Board of Medicine and shall include a physician, attorney, and layperson agreed to by the panelists. In cases involving hospitals a hospital administrator shall also be appointed to the panel. (Idaho Code §§ 6.1001 through 6.1011)</p>	<p>To establish medical malpractice, the plaintiff must affirmatively prove by direct expert testimony and by a preponderance of all the competent evidence, that such defendant negligently failed to meet the applicable standard of care. The expert must possess professional knowledge and expertise coupled with actual knowledge of the applicable community standard to which his or her expert opinion testimony addresses. (Idaho Code §§ 6-1012, 6-1013)</p>	No	<p>Medical malpractice: within two years from the time of the occurrence of the wrongful act or omission at issue</p> <p>Foreign objects: within two years of when the claimant became aware of the injury, or one year following the date of the accrual, whichever is later</p> <p>Wrongful death: within two years of the date of death (Idaho Code § 5-219)</p> <p>Minors and insane: statute tolled by disability but for no more than 6 years.</p>
Illinois	<p>Arbitration is not mandatory but is permitted if the parties agree to binding arbitration by written agreement prior to care provided. The arbitration panel shall be made up of three arbitrators. One chosen by each party and one agreed upon by both parties. (710 ILCS 15/1 through 15/10)</p>	<p>In determining if a witness is competent to testify on the appropriate standard of care, the court must look at whether the witness is board certified, board eligible, or completed a residency in the same or substantially similar medical specialty as the defendant and has significant experience with the standard of care, methods, procedures, and treatments relevant to the allegations against the defendant, the amount of time spent by the witness on practicing, teaching, or researching medicine as it relates to the treatment at issue, whether the witness is licensed in the same class of license as the defendant; and whether, in the case against a nonspecialist, the witness can demonstrate a sufficient familiarity with the standard of care practiced in Illinois. A witness may not qualify as an expert if the witness cannot provide evidence that he or she has actively practiced medicine, taught, or done research in a university setting for the past five years. If retired, the witness must provide evidence that he or she completed continuing education courses for three years prior to testifying. (735 ILCS 5/8-2501) (Ruled unconstitutional – LeBron v. Gottlieb Memorial Hospital, February 2010)</p>	<p>Plaintiff or plaintiff’s attorney must file an affidavit with the complaint stating either (1) the affiant has consulted with a health professional who has determined in a written report that here is a reasonable and meritorious cause for the filing of such action; (2) the affiant was unable to obtain a consultation because the SOL would impair the action; or (3) the plaintiff has failed to receive requested records in a timely manner. Failure to file a certificate is grounds for dismissal.</p>	<p>Medical malpractice: within two years from the date the claimant became aware of the injury, or should reasonably have been aware of the injury, but in no event more than four years of the incident giving rise to the cause of action.</p> <p>Minors under eighteen: within eight years from the date of the wrongful act or omission giving rise to the claim; no claim may be filed for medical malpractice after the injured party’s twenty-second birthday.</p> <p>Wrongful death: within two years from the date of death, but does not apply if the claim is based on a medical malpractice and the statute of limitations has expired.</p> <p>Disabled: Tolled until disability is removed. (735 ILCS 5/13-212)</p>

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Indiana	Medical malpractice claims over \$15,000 must be presented to a medical review panel prior to commencement of the action in court, unless all parties issue a written waiver. The medical review panel shall consist of one lawyer and three health care providers. The panel must present an expert opinion in writing as to whether the defendant(s) deviated from the standard of care and if that deviation resulted in the injury at issue. The panel must also find whether there is a material issue of fact, not requiring expert opinion, bearing on the liability of the defendant(s). The opinion is admissible at trial but is not conclusive. (Indiana Code Ann. §§ 34-18-10-1 through 34-18-10-26)	Plaintiffs may pursue a claim without testimony from a medical expert, but it is usually required to establish the standard of care and deviation therefrom. The opinion of any member of the medical review panel is sufficient to establish a prima facie case for negligence, and the member may be required to testify at trial. (Ind. Code Ann. § 34-18-10-23)	No	<p>Medical malpractice: within two years from the date of the alleged wrongful/omitted act. (Plaintiffs who, because they suffer from conditions with long latency periods, and who are unable to discover the malpractice and their resulting injury within the two-year statutory period, are to be permitted to file their claims within two years of the date when they discover the malpractice and the resulting injury or facts that, in the exercise of reasonable diligence, should lead to the discovery of the malpractice and injury. Van Dusen v. Stotts, 712 N.E.2d 491, 1999 Ind. LEXIS 417 (1999).)</p> <p>Minors under the age of six must bring a suit before their eighth birthday. (Ind. Code. Ann. § 34-18-7-1; Ind. Code Ann. § 34-18-7-2)</p>
Iowa	No requirements	Medical malpractice claims must be established through the use of expert testimony, unless the facts clearly establish negligence. The expert's qualifications must relate directly to the medical problem or problems at issue and the type of treatment administered in the case. (Iowa Code § 147.139)	No	<p>Personal injury or death: within two years of the date the claimant became aware of the injury or should have discovered the injury through reasonable diligence, whichever occurs first. In no event may an action be brought more than six years from the date from which the alleged wrongful act or omission took place unless a foreign object unintentionally left in the body caused the injury or death.</p> <p>Minors: under the age of eight shall be brought no later than the minor's tenth birthday or as provided in the general statute of limitations for personal injury or death, whichever is later. (Iowa Code § 614.1)</p>

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Kansas	A court must convene a medical screening panel in a medical malpractice action if requested by one of the parties or upon a judge’s own motion. The screening panel shall include a health care provider selected by the defendant, a health care provider selected by the plaintiff, a health care provider selected by both the plaintiff and defendant, and an attorney selected by the court. The screening panel shall determine whether the defendant met the appropriate standard of care and if the injury was caused by a failure to meet the standard of care. The final decision by the screening panel shall be made in writing to all parties and the court, dissenting members of the panel may also submit their findings in writing. The written report may be submitted into evidence and any member of the panel may be called as a witness. (KSA §§ 65-4901 through 65-4908)	Expert testimony is required to establish negligence, except where the lack of reasonable care is obvious to the lay person. To qualify as an expert in a medical malpractice liability action, the expert must devote at least 50% of his or her professional time, within the two-year period preceding the incident giving rise to the action, to actual clinical practice in the same profession in which the defendant is licensed. (K.S.A. § 60-3412)	No	Medical Malpractice: within two years from the date of the injury, or from when the injury should have been reasonably discovered, but no more than four years after the alleged act or omission occurred. (KSA § 60-513) Minors, incapacitated, incarcerated - may bring an action within one year from the date the disability is removed, but no action may be brought more than eight years after the ac. (KSA § 515)
Kentucky	Arbitration agreements are valid, enforceable, and irrevocable, except on grounds that exist for any contract. (KRS 417.050)	Expert testimony is required to prove medical malpractice, unless the facts themselves establish a prima facie case.	No	Medical malpractice, injury or death: within one year from the date the injury was or should have reasonably been discovered, but no later than five years from the date the alleged negligent act or omission occurred. (KRS 413.140) Minors and persons of unsound mind: the one year limitation tolls until reaching the age of majority or the disability is lifted. (KRS 413.170)

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Louisiana	<p>Arbitration agreements between health care providers and patients are irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract. (RS 9:4231-9:4235)</p> <p>For cases involving providers insured by the Patient Compensation Fund, a nonbinding medical review panel comprised of three physicians and one attorney who shall serve as chairperson, but will not have a vote. The panel shall review the claim and issue a written opinion stating whether the defendant(s) failed to comply with the appropriate standard of care or if there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court. If the panel determines that the evidence does not support the conclusion that the defendant(s) failed to meet the standard of care, the panel must opine whether the conduct complained of was a factor of the damages and, if so, whether the claimant suffered a disability or permanent impairment. The report shall be admissible as evidence, but shall not be conclusive. Any panelist may be called as a witness.</p> <p>If all parties agree, then an expedited review process may be used. (RS 40:1299.47)</p>	<p>Expert testimony is generally required to prove malpractice.</p> <p>For cases involving providers insured by the Patient Compensation Fund, determinations made by the medical panel constitute expert testimony. (La. R.S. 40:1299.47)</p>	No	<p>Medical malpractice: within one year from the date of the discovery of the alleged wrongful act / omission, but not more than three years after the date the alleged wrongful act / omission occurred.</p> <p>Wrongful death: within one year of the date of death.</p> <p>Minors and incompetents: the adult standard applies (La. R.S. 9:5628)</p>
Maine	<p>Mandatory pre-litigation screening panel, which shall consist of a chair appointed by the Chief Justice and an attorney and health care provider selected by the chair. The panel shall submit a written opinion determining whether the acts or omissions of the defendant proximately caused the injury complained of, and if so whether the negligence of the plaintiff was equal to or greater than that of the defendant. The findings of the panel are confidential, but may be used in court under certain circumstances. (24 MRS §§ 2851 through 2589)</p>	<p>Expert testimony is required to establish a prima facie case of negligence, unless the facts can clearly demonstrate negligence to the lay person.</p>	No	<p>Medical malpractice injury and wrongful death: within three years of the alleged wrongful act or omission.</p> <p>Foreign object cases: statute of limitations does not accrue until the object is / should reasonably have been discovered.</p> <p>Minors: within six years of the alleged wrongful act / omission, or within three years of reaching majority, whichever comes first. (24 MRS § 2902)</p>

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Maryland	Arbitration of medical malpractice claims is generally required but can be unilaterally waived by any party to the action. Claims may be submitted for arbitration if both parties agree, but each side reserves the right to reject the decision and proceed to trial. The arbitration panel must determine the issue of liability as well as damages. A party may file an appeal with the panel to modify an award of damages. (3-2A-03, et. al.)	<p>Expert testimony is generally required to proceed with and prove negligence.</p> <p>A certificate of merit must be filed by a qualified expert, which is defined as “an individual who is a licensed professional, or comparably licensed or certified professional under the laws of another jurisdiction, knowledgeable in the accepted standard of care in the same discipline as the licensed professional against whom a claim is filed.” It does not include “(i) A party to the claim; (ii) An employee or partner of party; (iii) An employee or stockholder of a professional corporation of which a party is a stockholder; or (iv) A person having a financial interest in the outcome of the claim.” (§ 3-2C-01)</p>	A claimant must file a certificate of merit within 90 days after the claim is filed. The certificate must be from a qualified expert and must state the specific injury complained of, how the standard of care was breached, what the defendant should have done to meet the standard of care, and the inference that the breach of the standard of care proximately caused the plaintiff’s injury. (§ 3-2A-06D) A defendant must also file a certificate from a qualified expert indicating how the defendant complied with the specific standard of care, what the defendant did to meet the specific standard of care, and if applicable, that the breach of the standard of care did not proximately cause the plaintiff’s injury.	<p>Medical malpractice: within five years of the date the alleged wrongful act or omission occurred or three years from the time the alleged injury was discovered, whichever is earlier.</p> <p>Minors: statute begins to run at age eleven, unless the injury involves a foreign object or injury to the reproductive system, in which case the statute of limitations begins after the sixteenth birthday. (MD Courts and Judicial Proceedings 5-109)</p>
Massachusetts	No arbitration requirements. Every action for medical malpractice must be heard by a tribunal within 15 days after the defendant’s answer has been filed. The tribunal shall include a justice of the superior court, physician and attorney. The tribunal must determine if the evidence presented is sufficient to raise a legitimate question of liability appropriate for judicial review or whether the plaintiff’s case is merely an unfortunate medical result. If the tribunal finds in favor of the defendant(s) the plaintiff may only pursue the claim through court after filing a bond of at least \$6,000 payable to the defendant if the plaintiff does not prevail in the final judgment. (Mass. Ann. Laws ch. 231 § 60B)	Expert testimony is generally required to support a medical malpractice claim.	No	<p>Medical malpractice: within three years after the plaintiff learns, or reasonably should have learned, of the alleged wrongful act or omission, or no more than seven years after the alleged wrongful act or omission occurred except where the action is based upon the leaving of a foreign object in the body.</p> <p>Minors: same limitations period as adults, except a child under six may file before his ninth birthday. In either case no action may be filed more than seven years after the alleged wrongful act or omission occurred except where the action is based upon the leaving of a foreign object in the body. (Mass. Ann. Laws ch. 260 § 4 and ch. 231 § 60D)</p>

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Michigan	<p>Voluntarily binding arbitration of medical malpractice claims may proceed if agreed to and the alleged damages total less than \$75,000. All parties shall agree on a single arbitrator, who shall issue a written decision and dollar amount of the award. (MCL 600.2912g)</p> <p>A judge may order a case to go before a mediation panel. Such panel shall be comprised of five voting members, including three attorneys, one health care provider selected by the defendant, and one health care provider selected by the plaintiff. Within 14 days of the hearing the panel shall submit a written evaluation including its finding regarding the applicable standard of care. Each party may decide to accept or reject the mediators' decision. If all or part of mediators' decision is rejected the case shall proceed to trial. If a party has rejected an evaluation and the action proceeds to trial, that party shall pay the opposing party's actual costs unless the verdict is more favorable to the rejecting party than the mediation evaluation. If the opposing party has also rejected the evaluation, that party is entitled to costs only if the verdict is more favorable to that party than the mediation evaluation. (if the mediator's evaluation was not unanimous, costs shall not be awarded). (MCL 600.4901 et. al.)</p>	<p>(1) In an action alleging medical malpractice, a person shall not give expert testimony on the appropriate standard of practice or care unless the person is licensed as a health professional in this state or another state and meets the following criteria: (a) If the party against whom or on whose behalf the testimony is offered is a specialist, specializes at the time of the occurrence that is the basis for the action in the same specialty as the party against whom or on whose behalf the testimony is offered. However, if the party against whom or on whose behalf the testimony is offered is a specialist who is board certified, the expert witness must be a specialist who is board certified in that specialty. (b) Subject to subdivision (c), during the year immediately preceding the date of the occurrence that is the basis for the claim or action, devoted a majority of his or her professional time to either or both of the following: (i) The active clinical practice of the same health profession in which the party against whom or on whose behalf the testimony is offered is licensed and, if that party is a specialist, the active clinical practice of that specialty. (ii) The instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession in which the party against whom or on training of the expert witness. (b) The area of specialization of the expert witness. (c) The length of time the expert witness has been engaged in the active clinical practice or instruction of the health profession or the specialty. (d) The relevancy of the expert witness's testimony whose behalf the</p>	<p>An affidavit signed by a health professional whom the attorney believes meets the requirements for an expert witness must accompany all claims. The affidavit must: 1) state the applicable standard of care; 2) include an opinion by a qualified professional that the defendant breached this standard; 3) include the actions that should have been taken to avoid a breach in the standard; 4) state the manner in which the breach was the proximate cause of the plaintiff's injury. (MCL 600.2912d)</p>	<p>Medical malpractice: within two years from the date the alleged negligent act occurred or six months from the date where the claimant discovered or should have discovered the alleged injury, whichever is later, but in no event more than six years after the wrongful act or omission giving rise to the claim occurred.</p> <p>Fraud or permanent loss to reproductive organ resulting in the inability to procreate: cause of action must be filed within the time frame provided in the regular statute of limitations, or within 6 months after the plaintiff discovers or should have discovered the existence of a claim, whichever is later.</p> <p>Wrongful death: statute of limitations for medical malpractice attaches.</p> <p>Minors: claimants under eight must file by their tenth birthdays or within the general statute of limitations, whichever is later. Claimants under 13 and whose claims involves injury to the reproductive system, must file their claim before their 15th birthday, or within the general statute of limitations, whichever is later.</p> <p>Insane patient: statute is tolled under one year after the disability lifted. (MCL §§ 600.5805 and 600.5851)</p>

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Michigan (cont'd)		<p>testimony is offered is licensed and, if that party is a specialist, an accredited health professional school or accredited residency or clinical research program in the same specialty. (c) If the party against whom or on whose behalf the testimony is offered is a general practitioner, the expert witness, during the year immediately preceding the date of the occurrence that is the basis for the claim or action, devoted a majority of his or her professional time to either or both of the following: (i) Active clinical practice as a general practitioner. (ii) Instruction of students in an accredited health professional school or accredited residency or clinical research program in the same health profession in which the party against whom or on whose behalf the testimony is offered is licensed. (2) In determining the qualifications of an expert witness in an action alleging medical malpractice, the court shall, at a minimum, evaluate all of the following: (a) The educational and professional . (3) This section does not limit the power of the trial court to disqualify an expert witness on grounds other than the qualifications set forth in this section. (4) In an action alleging medical malpractice, an expert witness shall not testify on a contingency fee basis. A person who violates this subsection is guilty of a misdemeanor. (MCL § 600.2169).</p>		

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Minnesota	Arbitration of medical malpractice disputes is not required, but a system of voluntary, non-binding ADR processes has been established to assist the courts. (Minn. Stat. § 484.76)	Expert testimony is required to establish a prima facie medical malpractice claim, particularly with regard to the alleged deviation from the standard of care by the defendant, and the consequences of such deviation.	An affidavit must be filed in cases in which expert testimony is required to establish a prima facie case within 180 days of filing a claim. The affidavit must state that a qualified expert has reviewed the facts and has determined that one or more defendants deviated from the applicable standard of care. Failure to file the certificate will result in dismissal of each cause of action in which expert testimony is necessary to establish a prima facie case. (Minn. Stat. § 145.682)	<p>Medical malpractice/personal injury/other: within four years from the date the cause of action accrued. (Minn. Stat. § 541.076)</p> <p>Wrongful death: If the death of a person occurs within the last year of the period of limitation for the commencement of an action, the action may be commenced by the personal representative at any time within one year after such death. (Minn. Stat. § 541.16)</p> <p>Infant: tolled until plaintiff reaches the age of maturity. The extension shall not exceed beyond seven years or one year after the disability is removed. (Minn. Stat. § 541.15)</p> <p>Insanity: statute is tolled until the disability is removed. The extension shall not be extended for more than 5 years, nor more than one year after the disability is removed. (Minn. Stat. § 541.15)</p>
Mississippi	All persons, except infants and persons of unsound mind, may, by instrument of writing, submit to the decision of one or more arbitrators any controversy which may be existing between them, which might be the subject of an action, and may, in such submission, agree that the court having jurisdiction of the subject matter shall render judgment on the award made pursuant to such submission. In such case, however, should the parties agree upon a court without jurisdiction of the subject matters of the award, the judgment shall be rendered by the court having jurisdiction in the county of the residence of the party, or some one of them, against whom the award shall be made. (Miss Code Ann. § 11.15.1)	In any action for injury or death against a physician, whether in contract or tort, arising out of the provision of or failure to provide health care services, a person may qualify as an expert witness on the issue of the appropriate medical standard of care if the witness is licensed in this state, or some other state, as a doctor of medicine. (Miss. Code Ann. § 11.1.61)	Plaintiff's attorney must file a certificate with the complaint, which states either the attorney: (1) believes there is a reasonable basis for the action based on a review of the facts and consultation with at least one expert in the same specialty as the defendant; or (2) was unable to obtain a consultation because the statute of limitations would have barred the action. (The attorney must then submit a certificate within 60 days after the service of the complaint); or (3) was not able to obtain a consultation because three different physicians would not agree to a consultation.	<p>Medical malpractice: within two years from the date the alleged wrongful act or omission occurred or should have reasonably been discovered. In no event more than seven years after the alleged act or omission.</p> <p>Minors under age six: within two years of the sixth birthday, or two years after the death of the child, whichever is shorter. The statute tolls for children without a parent or legal guardian until one presents itself, or until the child reaches the age of majority.</p>

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Mississippi (cont.d)	In all suits or actions in any court, it shall be lawful for the plaintiff and defendant to consent to a rule of court referring all matters in controversy between them in such suit or action to the arbitrament of any person or persons who may be mutually chosen by them; and the award of such arbitrators being made and returned according to the rule of submission of the parties, approved by the court and entered of record, shall have the same effect as the final judgment or decree of the court into which such award may be returned, and execution may issue thereon accordingly; and like proceedings may be had, where applicable, as is provided in other cases. (Miss. Code. Ann. § 11.15.35)	<p>For the purposes of these regulations only, the Mississippi State Board of Medical Licensure has determined that the definition of the term “medical expert activities” includes, but is not limited to, the use of medical knowledge and professional judgment by a physician to (1) suggest or recommend to a person any medical advice or other agency (whether material or not material), (2) perform medical services (including, but not limited to, a physical or mental examination of a person), (3) conduct a review of a person’s medical record, (4) serve as a medical consultant, (5) render a medical opinion concerning the diagnosis or treatment of a person, (6) produce a written medical expert opinion report, affidavit, or declaration, or (7) give testimony under oath as a medical expert at a state or federal hearing, deposition, trial, administrative agency proceeding, alternative dispute resolution proceeding, or any other legal proceeding, regarding the medical issues in a legal matter or claim for injuries that is then pending in a court or administrative agency, or which may be filed or asserted whether or not such claim ever results in a pending legal matter and which involves a person, facility, or entity located within the State of Mississippi, or an event alleged to have occurred within the State of Mississippi. (Section 1, Rules and Regulations XXXII(c)).</p> <p>1. Except as otherwise provided by law, rule or regulation of this State, any medical expert activity by a physician regarding a legal matter pending in a state or federal court or administrative agency in Mississippi must be performed by a physician who holds a current unrestricted medical license in Mississippi, another State or foreign jurisdiction, and who has the qualifications to serve as a medical expert on the issue(s) in question by virtue of knowledge, skill, experience, training g, or education.</p>	The attorney does not need to disclose the name of the consulting expert or details of the consultation, however, he/she may have to disclose <i>in camera</i> the names of physicians who would not agree to a consultation. In lieu of providing a certificate, the plaintiff’s attorney may provide the defendant with expert information in the form required by the Mississippi Rules of Civil Procedure. Only a single certificate is required even if multiple defendants are named in the action.	Insanity: statute is tolled until the disability is removed. The claimant may file within two years of losing the disability. (Miss. Code Ann. § 15-1-36)

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Mississippi (cont.d)		<p>This rule does not supersede the policies and regulations of the Board in regards to unreferral diagnostic screening tests. 2. The practice of any physician not licensed in Mississippi that meets the licensure and qualification requirements stated in</p> <p>section D(1) of these regulations shall be deemed automatically by the Board to be authorized to include the performance of medical expert activities as an otherwise lawful practice, without any need for licensure verification or further requirement for licensure. In accordance with the provisions of law in Mississippi, any physician not licensed in Mississippi whose practice is deemed automatically by the Board to be authorized to include the performance of medical expert activities as an otherwise lawful practice shall be subject to regulation by the Board regarding the physician's performance of such medical expert activities in the State of Mississippi(Section 1, Rules and Regulations XXXII(d)).</p> <p>Any physician who performs medical expert activities must: (1) Comply with these regulations and all applicable provisions of Mississippi law (e.g., statutes, court rules and decisions, and other administrative agency rules and regulations) with regard to the performance of medical expert activities; (2) Comply with medical ethics principles, including, but not limited to, ethics principles established by the American Medical Association and relevant medical specialty associations; (3) Be honest in all professional interactions involving his or her medical expert activities;</p>		

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Mississippi (cont.d)		(4) Not accept payment for medical expert activities that is contingent upon the result or content of any medical diagnosis, opinion, advice, services, report, or review; or that is contingent upon the outcome of any case, claim, or legal matter then pending or contemplated; and (5) Not make or use any false, fraudulent, or forged statement or document (Section 1, Rules and Regulations XXXII(e)).		
Missouri	No requirements	Expert testimony is generally required to establish a claim of medical malpractice.	Within 90 days after the action is filed, the plaintiff or his or her attorney must file an affidavit stating that a qualified expert has been consulted and the expert has found the defendant failed to exercise reasonable care and that such failure directly caused or contributed to the alleged injury. An affidavit must be filed for every defendant. Failure to file an affidavit may result in dismissal of the action. The affidavit shall state the name, address, and qualifications of the health care provider who provided the written opinion to the plaintiff or plaintiff's attorney. The defendant may file a motion to have the court review the expert's opinion in camera. (RSMo § 538.225)	<p>Medical malpractice: within two years of the occurrence of the alleged wrongful act or omission giving rise to the claim, but no more than ten years after the date of the alleged negligence.</p> <p>Foreign objects: within two years of the discovery of the object.</p> <p>Minor: minors have until their twentieth birthday to bring a cause of action, but in no event later than ten years from the date of the act of negligence or two years from the minor's 18th birthday, whichever is later. (RSMo § 516.105)</p>

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Montana	Claimants must submit all malpractice claims or potential malpractice claims filed against health care providers to the panel prior to filing a complaint. Six members shall sit on the panel, including three attorneys and three providers from the same profession as the defendant (i.e. if the defendant is a physician, three physicians). The panel must decide whether there is substantial evidence that the acts complained of occurred, that they constitute malpractice, and whether there is a reasonable probability that the patient was injured thereby. The panel's decision must be in writing, but is not binding on any party. The panel's decision is not admissible in court, and no member of the panel may be called to testify at a subsequent trial. The panel may recommend an award, as well as discuss and approve settlement agreements. (Mont. Code Ann. § 27-6-101, et al.)	Expert testimony is generally required to establish a cause of action for medical malpractice. (Mont. Code Ch. 10 Rule 702) Experts must be licensed in at least one state, and have within the past five years routinely treated the diagnosis or condition or provided the type of treatment at issue. The expert may also qualify if within the past five years he/she has instructed students in an accredited health professional school or accredited residency or clinical research program relating to the diagnosis or condition or the type of treatment that is the subject matter of the claim. The expert must also demonstrate that he or she is thoroughly familiar with the standards of care and practice on the date of the incident upon which the malpractice claim is based. The expert must be in the same specialty as the defendant unless the standards of care and practice are substantially similar.	No	Actions for injury or death based on alleged professional negligence shall be filed within three years of the date of the alleged negligence or the date when the negligence should have reasonably been discovered. No claims may be brought more than five years after the alleged negligence occurred. Minors under four: statute is tolled until the eighth birthday, or death, whichever is earlier, or during any period the child does not reside with a parent or guardian. (Mont. Code Ann. § 27-2-20)
Nebraska	A medical review panel shall provide their expert opinion as to whether the defendant failed to meet the standard of care, or if there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court or jury. The panel shall consist of three physicians and one non-voting attorney who shall chair the panel. Each party to the action shall select one physician and these physicians shall agree on a third physician to sit on the panel. A fourth member shall be added in cases involving hospitals. The decision by a majority of the members of the panel shall be submitted to the court in writing. Either party may request a copy of the minority report if one exists. The majority and minority report may be submitted as evidence and any member of the panel may be called as a witness. (RRS Neb. §§ 44-2840 through 44-2847)	Expert testimony is required to establish a prima facie case of negligence in common law.	No	Medical malpractice: within two years after the act/omission giving rise to the action, or within one year after the claimant discovered/should have discovered the act/omission. Ten year statute of repose. (RRS Neb. § 44-2828) Under age 21: statute is tolled until claimant reaches age 21. (RRS Neb. § 25-213) Mental disorder: Statute is tolled until the disorder is removed. (RRS Neb. § 25-213)

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Nevada	All parties, their insurers and attorneys must attend and participate in a settlement conference before a district judge who is not assigned to the case. Failure to participate in the settlement conference in good faith is grounds for sanction against the party and/or his attorney. 2002 law phases out Nevada's screening panel. (NRS 41A)	Expert testimony is required from a physician licensed to practice medicine in any state who devotes three-fourths of his or her time to the active clinical practice of medicine or its instruction at an accredited university. The expert must practice in the same or substantially similar area to the type of practice engaged in at the time of the alleged negligence.	In an action for malpractice, the plaintiff must file an affidavit with the complaint supporting the allegations contained in the action. The affidavit must be submitted by a medical expert who practices in an area that is substantially similar to the defendant. (NRS 41A.071)	Medical malpractice: within three years after the date of injury or one year from the date the injury was or should have been discovered. (2004) Wrongful death: same Minors: Parents/guardians must determine, and same statute applies unless the claim involves birth defects or brain damage. In such cases, the statute is extended until the child reaches age ten. In cases involving sterility the statute of limitations is extended until 2 years after the child discovers the injury. (NRS 41A.097)
New Hampshire	Pre-litigation screening panel, which shall consist of a chair appointed by the Chief Justice and an attorney and health care provider selected by the chair. The panel may be bypassed if all parties agree upon a resolution of the claim by trial. By written agreement all parties may agree to a binding determination of the panel. Hearings before a panel shall be similar to a trial, including the examination and cross examination of witnesses. Upon conclusion of the hearing, the panel shall submit a written opinion determining whether the acts or omissions of the defendant deviated from the applicable standard of care and proximately caused the injury complained of, and if so whether the negligence of the plaintiff was equal to or greater than that of the defendant. The panel's finding must be made by a preponderance of the evidence. The findings of the panel are confidential and not admissible as evidence except if the panel's determination was unanimous in favor of the plaintiff or defendant and the opposing party takes the case to trial. (RSA 519-B:1 through 519-B:12)	Expert testimony is generally required to establish negligence. There is also a statute that requires the expert to have been competent and qualified to have rendered care when the alleged injury occurred (NOTE: held unconstitutional).	No	Medical malpractice: within two years from the date of injury (NOTE: held unconstitutional) (RSA § 507-C:5) Personal injury and wrongful death: within three years from the date of injury or death, but if the injury could not reasonably have been discovered within that time, the statute runs from the time the injury is discovered or should have been discovered. (RSA § 508:8) Infant, mentally incompetent: within two years from reaching the age of majority or when disability is lifted. (RSA § 508:4)

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New Jersey	If the amount in controversy is \$20,000 or less the claim must be submitted to arbitration. The arbitrator’s determination must be made in writing stating the issues in controversy and the arbitrator’s legal and factual conclusions. The arbitrator’s decision is inadmissible and non-binding in subsequent court actions. (NJ Stat. §§ 2A:23A-20 through 2A:23A-25) Voluntary arbitration permitted for cases involving more than \$20,000.	Expert testimony is required unless the facts and allegations are within a lay person’s common knowledge. To qualify as an expert in a medical liability case or execute an affidavit of merit, the provider must be licensed as a physician or other health care professional. If the defendant is a board certified and the standard of care at issue involves his or her specialty, the expert must be board certified in the same specialty or credentialed by a hospital to treat patients for the medical condition or perform the procedure at issue. During the year immediately preceding the date of the occurrence, the expert must have also devoted a majority of his professional time to the active clinical practice of medicine or teaching. Upon motion by either party, the court can waive these requirements.	Plaintiffs must file an affidavit of merit, within 60 days of filing the claim, that includes statements from an “appropriate licensed person” that there exists a reasonable probability that the standard of care was not met. Failure to file an affidavit shall be deemed to be a failure to state a cause of action. (NJ Stat. § 2A:53A-27)	Medical malpractice: within two years from the date of the alleged injury. Courts interpret this to toll the statute until the party reasonably becomes aware of the injury or that the injury is due to another’s fault. (NJ Stat. § 2A:14-2) Wrongful death: within two years from the date of death. Minors under 21, insane: Statute does not begin to run until age of majority or disability is removed. (NJ Stat. § 2A:14-21) Medical injuries sustained at birth must be commenced prior to the minor’s 13 th birthday.
New Mexico	Prior to filing a complaint alleging malpractice against a health care provider, claims must be reviewed by the state medical review commission, which shall decide whether the alleged act or omission constituted negligence and whether there is a reasonable medical probability that the patient was injured thereby. The panel shall include six members: three attorneys and three health care providers from the same health care profession (and where applicable, two shall be from the same specialty) as the provider before the panel. The director of the commission, or an attorney delegated by the director shall chair the panel. The commission’s determination is non-binding and inadmissible. (NM Stat. Ann. § 41-5-1 through 41-5-29).	Expert testimony is generally required unless negligence is so apparent that a lay person could so comprehend.	No	Medical malpractice: within three years from the date the alleged malpractice occurred. Wrongful death: same Providers who are covered by the Excess Coverage Fund: within three years from date the claimant knew or should have known of the injury. Minors under six: until the ninth birthday (NOTE: Supreme Court has held statute unconstitutional in certain cases where time frame is unfair). (NM Stat. Ann. § 41-5-13)

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New York	Defendants may concede liability and agree to arbitration of damages. (NY CLS CPLR § 3045)	Expert testimony is required unless within the ordinary experience and knowledge of lay person, negligence is apparent. Experts are generally not deposed prior to trial and their identity need not be revealed prior to trial.	Claimants must file an affidavit of merit within 90 days of the complaint. The affidavit must state that the claimant’s attorney has consulted with an expert and based on such consultation, the attorney has concluded that there is a reasonable basis for the action, or that such consultation could not occur due to time limitations or because the attorney made three separate attempts to obtain a consultation and three physicians would not agree to the consultation. This does not apply in cases where the facts speak for themselves, or if the claimant provides information on the expert’s qualifications/ nature and scope of the expert’s opinion during discovery. (NY CLS CPLR 3012-a)	Medical malpractice: within two and a half years of the act/omission giving rise to the complaint or from the end of a continuous treatment during which the act/omission occurred. Wrongful death: within two years from the date of death Minors and Insanity: Statute is tolled until the disability ceases, but is tolled no longer than ten years in medical malpractice cases. (NY CLS CPLR § 214-a and § 208)
North Carolina	Any civil actions filed in the Superior Court may be subject to mandatory mediation. If a mediated settlement conference is ordered, all parties must participate in good faith. Statements made and conduct of the parties during mediation are not admissible in any proceedings related to the claim. (NC Gen. Stat. § 7A-38.1) Voluntary binding arbitration cases capped at \$1,000,000 total damages. (2007)	Medical malpractice claims will be dismissed unless the complaint asserts that a qualified provider has reviewed the medical care in question and is willing to testify that the standard of care was not met, or if the facts speak for themselves. Expert testimony is required to establish the standard of care, unless the negligence is obvious to a lay person. Experts must generally be licensed providers who were practicing or teaching in the same/similar specialty as the defendant within a year of the alleged negligence. (NC Gen. Stat. § 6-5-548)	No	Medical malpractice: within three years from the date of the last act giving rise to the action, or within one year of when the injury was/should have been discovered, but in no event more than four years from the date of the last act giving rise to the action. Wrongful death: same, or within two years of death, whichever is shorter. Foreign object: within one year from the date of discovery, but in no event more than ten years from the date of occurrence. Minors: same, but the child’s action may be brought any time before his or her 19th birthday. Insanity: tolls the statute (NC Gen. Stat. §§ 1-15 and 1-17)

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
North Dakota	Arbitration is not mandated, but parties must make a good faith effort to resolve the dispute via some sort of alternative dispute resolution prior to filing a lawsuit. (ND Cent. Code § 32-42-03)	None	Expert opinions must be obtained within three months of filing a claim unless the case involves obvious malpractice. Rules do not apply to cases involving foreign objects, lack of informed consent or performing a procedure of the wrong person, body part, etc. (ND Cent. Code § 28-01-46)	<p>Medical malpractice: within two years of the act or omission giving rise to the action, or within two years from the date the injury was/should have been discovered, but in no event more than six years after the date of injury.</p> <p>Wrongful death: same, but courts recognize that the injury should have been discovered on the date of death, so within two years after date of death.</p> <p>Minors, insane, imprisoned: statute is tolled during the disability, but for no more than five years for the insane and/or imprisoned, and not more than twelve years for a minor. Action must be brought within one year after the disability ceases.</p> <p>(ND Cent. Code §§ 28-01-18 and 28-01-25)</p>
Ohio	<p>Arbitration is permitted but not required. Upon the filing of a medical claim, all parties may agree to submit the claim to an arbitration panel, which shall consist of three arbitrators selected by the court. The determination of the arbiter is non-binding and inadmissible as evidence at trial. (ORC § 2711.12)</p> <p>A written agreement to binding arbitration shall be valid, irrevocable, and enforceable unless the patient or his or her representative rescinds the contract in writing within 30 days after the signing of the contract. (ORC § 2711.23)</p>	<p>Expert testimony must be presented to establish the standard of care, breach and proximate cause.</p> <p>Experts must be licensed in any state to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery and devote three-fourths of his or her professional time to the active clinical practice of medicine or surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, or to its instruction in an accredited university. The expert must practice in the same or substantially similar specialty as the defendant and if the defendant is certified in a specialty, the expert must also be certified by a board recognized by the American Board of Medical Specialties. An out of state expert will be deemed to have a temporary license to practice in the state. (ORC § 2743.43).</p>	<p>Yes. The plaintiff's attorney must file an affidavit of merit with a medical liability claim. The affidavit must be signed by a physician that meets the expert witness requirements and must include the following: A statement that the affiant has reviewed all medical records reasonably available to the plaintiff concerning the allegations contained in the complaint; a statement that the affiant is familiar with the applicable standard of care; the affiant's opinion that the standard of care was breached and that the breach caused the injury. (Ohio Supreme Court Rule)</p>	<p>Medical malpractice: within one year after the claimant discovers, or should have reasonably discovered the injury, or when the physician-patient relationship for that condition terminates, whichever is later. In no event may a claim be brought after four years from the date of the injury on which the claim is based. (ORC Ann. 2305.11)</p> <p>Minor, unsound mind: statute is tolled until the disability is lifted. (ORC Ann. 2305.13)</p>

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Oklahoma	No provision	To qualify as an expert in a medical liability cause of action, the expert must be licensed to practice medicine or have other substantial training or experience in any area of health care relevant to the claim, and must be actively practicing or retired from health care in any area of health care services relevant to the claim. The judge may allow experts who do not meet these qualifications to testify if the judge finds there is good reason to admit the expert's testimony and this reason is stated on the record. (63 Ok. Stat. § 1-1708.1I)	<p>Yes. In any civil action for professional negligence, the plaintiff shall file an affidavit stating that: 1) the plaintiff has consulted and reviewed the facts of the claim with a qualified expert, 2) the plaintiff has obtained a written opinion from a qualified expert stating that the acts or omissions of the defendant constituted professional negligence; and 3) the plaintiff has concluded that the claim is meritorious and based on good cause.</p> <p>Upon a motion by the defendant, the court shall dismiss the action if the plaintiff failed to include an affidavit of merit and the court did not grant an extension. (63 Okl. St. § 1-1708.1E)</p>	<p>Medical malpractice: within two years from the date upon which the claimant knew or should have known of the alleged injury. (Found unconstitutional Woods v. Unity Health Center, Inc. 2008 OK 97 Case Number: 105737 (2008))</p> <p>Wrongful death: within two years from the date of death.</p> <p>Minors under 12: within seven years from the date of injury.</p> <p>Minors 12 and over: within one year from obtaining the age of majority, but not more than two years from the date of injury.</p> <p>Incompetence: within seven years from the date of the injury, and within one year after deemed competent. (76 Okl. St. § 18 and 12 Okl. St. § 96)</p>
Oregon	No provision	Expert testimony is required to establish a prima facie case, unless the negligence is obvious to a lay person.	No	<p>Medical malpractice: within two years of the date an injury is or should reasonably have been discovered, but in no event more than five years from the date of treatment.</p> <p>Wrongful death: within three years after the injury causing the death is or should reasonably have been discovered, but in no event more than three years after the date of death or five years as applicable to the medical malpractice statute.</p> <p>Minors through age 18, insane: statute is tolled until disability is removed, but such extension shall not last longer than five years for any disability, nor shall it be extended in any case longer than one year after such disability ceases. (ORS § 12.110 and 12.160)</p>

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Pennsylvania	Mandatory arbitration law held unconstitutional based on right to trial by jury.	Expert testimony is required to establish the requisite standard of care, unless negligence is obvious to a lay person. Experts must be a physician who is actively engaged in clinical practice or teaching and experienced in the care at issue. Experts on the standard of care must be the same or similar specialty and board certified, if applicable, as the defendant. The court can waive this requirement if the expert has sufficient training, experience, or knowledge as a result of active practice or teaching within five-years prior to the incident.	Plaintiff's attorney must file a certificate of merit within 60 days of the filing of a malpractice claim. The certificate must be signed by the attorney and must state that an expert has supplied a written statement that there exists a reasonable probability that the defendant breached the standard of care, the defendant was responsible for the person who breached the standard of care, or expert testimony is unnecessary for prosecution of the claim. A defendant who files a counterclaim must also file a certificate of merit. (S. Ct. rule 1042.3)	<p>Medical malpractice: within two years of the date of treatment. The statute is tolled until the plaintiff knows or should know of: 1) the injury; 2) the operative cause of the injury; and 3) the causative relationship between the injury and the operative conduct.</p> <p>In no event may an action be brought later than seven years from the time of the alleged conduct, except for cases where a foreign objects was unintentionally left in the body. (40 P.S. § 1301.605)</p> <p>Wrongful death: within two years of the date of death (40 P.S. § 1303.513)</p> <p>Minors: the 7 year statute of repose is tolled until the minor reaches 20 years of age. (40 P.S. § 1303.513)</p>
Rhode Island	No provision	In any legal action for personal injury or death filed against a physician based on professional negligence, only those persons who by knowledge, skill, experience, training, or education qualify as experts in the field of the alleged malpractice shall be permitted to give expert testimony as to the alleged malpractice. (RI Gen. Laws § 9-19-41)	No	<p>Medical malpractice: within three years of the date of the incident, or the date the claimant knew or should have known of the act.</p> <p>Wrongful death: same</p> <p>Minors/mentally ill: within three years following age of majority or removal of the disability. (RI Gen. Laws §§ 9-1-14 and 9-1-14.1)</p>

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
South Carolina	At any time before a medical malpractice action is brought to trial, the parties shall participate in mediation governed by procedures established in the South Carolina Circuit Court Alternative Dispute Resolution Rules in effect at the time for the State or any portion of the State. Parties may also agree to participate in binding arbitration. (SC Code Ann. 15-79-120)	<p>Expert testimony must be introduced to prove the defendant did not meet the standard of care, unless a lay person would be capable of inferring negligence.</p> <p>An expert who signs an affidavit of merit must hold a license in the state in which he or she practices, and maintain board certification, or have actual professional knowledge and experience in, the area of practice or specialty on which the opinion of the standard of care is based. An expert is considered to have actual professional knowledge if he or she has actively practiced or taught in the area of specialty for three of the last five years immediately preceding the opinion. An expert who is not licensed or board certified may still sign an affidavit if the expert has scientific, technical, or other specialized knowledge which may assist the trier of fact in understanding the evidence and determining a fact or issue in the case. In this case, however, the affidavit must contain an explanation of the expert's credentials. (SC Code Ann. 15-36-100)</p> <p>The board may issue a license to a physician licensed in good standing in another state, who has been engaged to testify as an expert medical witness in an administrative, civil, or criminal proceeding in this State. The license only shall authorize practice in this State as an expert medical witness in a particular proceeding in this State. This license must be valid for the duration of the particular</p>	Yes. Before initiating a medical liability action, the plaintiff must file an affidavit of an expert witness. The affidavit of an expert witness must be signed by an expert witness and specify at least one alleged negligent act or omission and the factual basis for each claim. (SC Code Ann. 15-36-100)	<p>Medical malpractice: within three years from the date of the occurrence, or within three years from the date it should have been discovered, but in no event more than six years from the date of the occurrence. (SC Code Ann. 15-3-545)</p> <p>Wrongful death: same (SC Code Ann. 15-3-545)</p> <p>Discovery of a foreign object: within two years from the date of discovery. (SC Code Ann. 15-3-545)</p> <p>Minor: statute is tolled but not for more than seven years or more than one year after the disability ceases. Such time limitation is tolled for minors for any period during which parent or guardian and defendant's insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor. (SC Code Ann. 15-3-545)</p> <p>Insanity: statute is tolled for no more than five years from the date of the occurrence, or one year after the disability is lifted. (SC Code Ann. 15-3-40)</p>

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
South Carolina (cont.d)		proceeding for which it is issued. This license must authorize only practice in this State that is related directly to the particular proceeding for which it is issued. A separate license must be obtained for each proceeding in which the applicant is engaged to testify as an expert medical witness in this State. (SC Code Ann . 40-47-35) (The South Carolina Supreme Court has suspended implementation of this provision “Act No. 385 of 2006 – relating to defining the “practice of medicine.”)		
South Dakota	Not mandated, but permitted. Arbitration panel determines existence of liability, then gives the parties 30 days to agree on damages. If the parties fail to agree, the panel will make a determination. (SD Codified Laws § 21-25B-1 et al.)	Expert testimony must be introduced to establish negligence.	No	Medical malpractice: within two years from the date of the alleged malpractice. Minors: statute tolled, but not tolled for longer than one year after the disability ceases. (SD Codified laws §§ 15-2-14.1 and 15-2-22)

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Tennessee	Not mandated, but permitted. (Tenn. Code An. § 29-5-101)	Expert witnesses must be licensed in Tennessee or a contiguous bordering state in a profession or specialty which would make that person's expert testimony relevant to the issues of the case and have practiced in such profession or specialty during the year preceding the date the alleged injury or wrongful act occurred. The court can waive the requirement if an appropriate witness is not available.	Yes. Within ninety days of filing a medical liability claim, the plaintiff/plaintiff's counsel shall file a Certificate of Good Faith stating: Plaintiff/plaintiff's counsel consulted with one or more experts who have provided a signed written statement confirming that the expert believes that he or she is competent to express opinions as an expert in this case and that based on the information available from the medical records concerning the care and treatment of the plaintiff for the incident(s) at issue, there is a good faith basis to maintain the action; or Plaintiff/plaintiff's counsel consulted with one or more experts who have provided a signed written statement confirming that the expert believes that he or she is competent to express opinion(s) in the case and that based on the information available from the medical records reviewed concerning the care and treatment of the plaintiff for the incident(s) at issue and, as appropriate, information from the plaintiff or others with knowledge of the incident(s) at issue, that there are facts material to the resolution of the case that cannot be reasonably ascertained from the medical records or information reasonably available to the plaintiff or plaintiffs counsel; and that despite the absence of this information there is a good faith basis for maintaining the action as to each defendant. The failure of a plaintiff to file a Certificate of Good Faith in compliance with this section shall, upon motion, make the action subject to dismissal with prejudice. The failure of a defendant to file a Certificate of Good Faith shall, upon motion, make such allegations subject to being stricken with prejudice unless the plaintiff consents to waive compliance with this section. (2008)	Medical malpractice: within one year after discovery of the injury, but no more than three years after the alleged negligence occurred, except in cases of foreign objects. (Tenn. Code Ann. Sec 29-26-116) Minors, unsound mind: within one year following removal of the disability. (Tenn. Code Ann. § 28-1-106)

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Texas	Not mandated by state law.	An expert witness must be a physician who is practicing medicine at the time such testimony is given or was practicing medicine at the time the claim arose; has knowledge of accepted standards of medical care for the diagnosis, care, treatment of the illness, injury, or condition involved in the claim; and is qualified on the basis of training or experience to offer an expert opinion regarding the accepted standard of medical care. The physician will be considered qualified on the basis of training of he or she is board certified or has other substantial training or experience in an area of medical practice relevant to the claim; and is actively practicing medicine in rendering medical care services relevant to the claim.	Yes. Within 120 days of filing suit, a plaintiff must serve an expert report on defendant. An expert report is a written document that summarizes the expert opinion regarding the applicable standard of care, how the physician failed to meet that standard, and the causal relationship between that failure and the harm suffered by the claimant. Failure to file the expert report within the 120 days deadline will result in dismissal prejudice.	<p>Medical malpractice: within two years of the breach/tort or completion of treatment. For cases of continuous treatment, the period begins on the last day of treatment, or, if the date of the breach/tort is ascertainable, the period begins on that date.</p> <p>Wrongful death: same (for medical malpractice)</p> <p>Minors under age 12 shall have until their 14th birthday to file a claim. (Unconstitutional - Adams v. Gottwald, 179 S.W.3d 101 (Tex. App. San Antonio 2005).</p> <p>Statute of repose exists stating that all claims must be brought within 10 years of the occurrence of the negligent act or omission or they claim will be forever time-barred.</p> <p>(Tex. Civ. Prac. & Rem. Code. § 74.251(a))</p>
Utah	<p>Arbitration agreements between a patient and health care provider are valid and enforceable. (78B-3-420)</p> <p>Claimants may request a pre-litigation hearing. The panel conducting the hearing shall include a lawyer, health care provider who is practicing and knowledgeable in the same specialty as the proposed defendant, a lay person, and if the claim is against only a hospital or their employees a hospital administrator. The panel shall issue a written opinion whether the claim(s) against the defendant(s) has merit or no merit, and if a claim is determined to have merit, whether the conduct resulted in harm to the claimant. The panel's decision shall not be subject to judicial review or appeal and their decision shall not be admissible as evidence in any subsequent action. Members of the panel may also not be called to testify. The panel's decision may be binding if agreed to in writing by the parties. (78B-3-416)</p>	Expert testimony must be presented to establish a deviation below the standard of care, unless the facts are knowledgeable to a lay person.	Affidavit requirement is tied to pre-litigation panel process. An affidavit of merit is required if the pre-litigation panel makes a finding of "non-meritorious." The affidavit of merit shall be executed by the plaintiff and state that the affiant has consulted with and reviewed the facts of the case with a health care provider who has determined after a review of the medical record and other relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of a medical liability action. It shall include an affidavit signed by a health care provider which states that in the health care provider's opinion: 1) there are reasonable grounds to believe that the applicable standard of care was breached; 2) the breach was a proximate cause of the	<p>Medical malpractice: within two years of the date the injury was/should have been discovered, but in no event more than four years after the negligent act.</p> <p>Wrongful death: same</p> <p>Foreign object: within one year from the date the object was/should have been discovered (four year limit does not apply)</p> <p>Minors/disabled: Same (NOTE: limits ruled unconstitutional for minors) (Utah Code Ann. § 78-3-404)</p>

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Utah (cont'd)			<p>injury claimed in the notice of intent to commence action; and 3) the reasons for the health care provider's opinion. The affidavit does not need to address breach of the standard of care if breach was found by the pre-litigation panel.</p> <p>In claims against a physician, the health care provider signing the affidavit of merit must be a licensed physician in Utah or another state. The plaintiff's attorney may receive a 60 day extension if he or she meets certain requirements. The plaintiff or plaintiff's attorney who submits allegations in an affidavit of merit that are found to be without reasonable cause and untrue, based on information available to the plaintiff at the time the affidavit was submitted, is liable to the defendant for the payment of reasonable expenses and reasonable attorney fees actually incurred by the defendant or the defendant's insurer. An affidavit of merit is not admissible, and cannot be used for any purpose, in a subsequent lawsuit based on the claim that is the subject of the affidavit, except for the purpose of establishing the right to recovery for a false claim. A court or arbitrator may award costs and attorney fees if the defendant files a motion for costs and attorney fees within 60 days of the judgment or dismissal of the action in favor of the defendant. The person making a motion for attorney fees and costs may depose and examine the health care provider who prepared the affidavit of merit. (Utah Code Ann. § 78B-3-423)</p>	

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Vermont	<p>All parties may agree to submit the claim to arbitration. The panel shall consist of three members, including a judicial referee, lay person, and member of the same profession as the defendant. The panel must issue a written decision, which shall state certain findings of fact, and shall specify damages if such decision is in favor of the defendant. Either party may appeal the panel's decision. (12 V.S.A. § 7001)</p>	<p>Expert testimony is required to establish a deviation from the applicable standard of care, unless the negligence is so apparent as to be comprehensible to an average juror. (12 VSA Ch. 61 § 1643)</p>	No	<p>Medical malpractice: within three years from the date of the alleged conduct, or two years from the date the plaintiff knew/should have known of the alleged injury, but in no event more than seven years after the alleged conduct.</p> <p>Foreign object: within two years from the date the object was discovered (seven year limit does not apply)</p> <p>Minor or Insane: Same, following removal of the disability (12 VSA §§ 521 and § 551)</p>
Virginia	<p>Any party may request a review by a medical malpractice review panel made up of two attorneys, two health care providers, and one circuit court judge. The panel must issue a written opinion stating whether or not the defendant met the standard of care and, if not, whether it was the proximate cause of damages. The panel's opinion may be admissible as evidence, but shall not be conclusive. (VA Code § 8.01-581.1 et al.)</p> <p>Parties may agree to binding arbitration in advance of treatment, but the plaintiff must have the ability to opt out of the proceeding within 60 days after termination of treatment. (VA Code § 8.01-581.12)</p>	<p>In a medical malpractice cause of action, an expert witness shall testify as to the standard of care. A witness shall be qualified to testify as an expert on the standard of care if he demonstrates expert knowledge of the standards of the defendant's specialty and of what conduct conforms or fails to conform to those standards and if he has had active clinical practice in either the defendant's specialty or a related field of medicine within one year of the date of the alleged act or omission forming the basis of the action. Physicians licensed in Virginia or another state with similar educational and examination requirements are presumed qualified. (VA Code § 8.01-581.20)</p>	<p>When the plaintiff files a claim, the plaintiff must certify that they have contacted an expert who has determined that, based upon a reasonable understanding of the facts, the defendant deviated from the applicable standard of care and the deviation was a proximate cause of the injuries claimed. The expert does not need to meet the same qualifications as an expert who testifies at trial. (VA Code § 8.01-20.1; § 8.01-50.1; and § 16.1-83.1)</p>	<p>Medical malpractice: within two years from the date the cause of action accrued.</p> <p>Foreign objects/concealment: within one year of the date the object/injury is discovered/should have been discovered. In no event may an action be brought within ten years from the date of the cause of action.</p> <p>Wrongful death: within two years of death</p> <p>Minors: within two years of the date of the last act of negligence. If the minor is under age 8, the action must be brought by the minor's 10th birthday unless the discovery provision applies.</p> <p>Incapacitated: Statute is tolled until the incapacity is lifted, unless the person is represented by a guardian or committee, in which case the one-year limitation will apply.</p> <p>(Va. Code Ann. §§ 8.01-243 and 243.1)</p>

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Washington	<p>Mediation is mandatory as of 1993. The mediator must be an attorney who has experience or expertise related to actions occurring as a result of health care.</p> <p>A voluntary binding arbitration system is available where all parties to the suit agree to arbitration after the suit is filed. The arbitration is subject to a \$1 million limit on damages. Parties pick arbitrator. Each side presents two liability experts, two damages experts, and one rebuttal expert.</p>	<p>Expert testimony is often, but not always, required to establish a deviation from the applicable standard of care and that the defendant's negligence caused the injury. Cases where such testimony is not required can include foreign object cases and cases in which the conduct of the defendant is so grossly negligent that a lay person could easily recognize it.</p>	<p>A plaintiff is required to file a certificate of merit by a qualified expert at the time of filing suit that states there is a reasonable probability the defendant's conduct did not meet the required standard of care. (Ruled unconstitutional <i>Putman v. Wenatchee Valley Med. Ctr.</i>, P.S.80888-1)</p>	<p>Medical malpractice: within three years of the act/omission alleged to have caused the injury, or one year after discovery of the act or omission, whichever is longer. In no event may an action be brought more than eight years after the date of the alleged act/omission.</p> <p>Wrongful death: within three years after death.</p> <p>Fraud, intentional concealment, discovery of a foreign object: statute of limitations is tolled.</p> <p>Minors: Limitations period is tolled until age 18. Later provision imputed knowledge of a custodial parent or guardian to the person under 18. WASC has negated this latter provision. (Rev. Code Wash. §§ 4.16.350 and 4.16-190)</p>
West Virginia	<p>Upon notice of the intent to file a claim, a defendant may demand pre-litigation mediation. The mediator's decision is confidential and inadmissible in court. (W. Va. Code § 55-7B-6)</p>	<p>Expert testimony is generally required to establish a deviation from the applicable standard of care. Expert witnesses must have, at the time of the medical injury, devoted sixty percent of their professional time annually to active clinical practice in their medical field or specialty, or to teaching in their medical field or specialty in an accredited university. The expert witness must be engaged or qualified in a medical field in which they have experience and/or training in diagnosing or treating injuries or conditions similar to those of the patient, and possess professional knowledge and expertise coupled with knowledge of the applicable standard of care to which his or her expert opinion testimony is addressed.</p>	<p>At least 30-days prior to the filing of a professional liability action, a claimant must provide notice to the defendant of his or her intent to file a lawsuit, which shall include a certificate of merit. The certificate must be provided under oath by a qualified provider and shall state with particularity the expert's familiarity with the applicable standard of care at issue, the expert's qualifications, the expert's opinion as to how the standard of care was breached, and how such breach resulted in injury or death. The claimant does not have to file the expert's opinion if he or she believes the cause of action is based upon a well-established legal theory of liability. (W. Va. Code § 55-7B-6)</p>	<p>Medical malpractice: within two years of the date the injury occurred, or the date the claimant discovered/should have discovered the injury. In no event may an action commence more than ten years after the injury.</p> <p>Minors under 10: within two years of the injury or prior to the claimant's 12th birthday, whichever is longer.</p> <p>(W.Va. Code § 55-7B-4)</p>

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
West Virginia (cont'd.)		Additionally the witness must be licensed in good standing by the licensing authority of any state and not have had a professional license revoked or suspended in the past year in any state. If the witness has the above qualifications at the time of trial, there is a rebuttable presumption that the witness qualifies as an expert. The parties have the opportunity to impeach any witness' qualifications as an expert. (W. Va. Code § 55-7B-7)		
Wisconsin	Mediation is available. Claimants may request mediation prior to commencing suit, in which case the statute is tolled until completion of the mediation. They may also request mediation within 15 days after filing a complaint, in which case the suit is stayed until the mediation is complete. The court must appoint a mediation panel consisting of three members: public member, attorney, and health care provider. The proceedings of the mediation panel shall not be recorded and are not admissible as evidence. (Wis. Stat. § 655.42 et al.)	Expert witness testimony is generally required to establish the standard of care and deviation therefrom, but it is not required if the issue involves routine care within the jury's common knowledge. (Wis. Stat. § 907.02)	No	Medical malpractice: within three years from the date of injury, or one year from the date of discovery, but in no event more than five years from the date of the negligent act. (NOTE: recently held unconstitutional as applied to plaintiffs that could not reasonably have known of an injury) Minor: same, or by the time the minor reaches age 10, whichever is longer. Disabled: within two years from the date the disability has been lifted, but in no event more than five years from the date of the negligent act. (Wis. Stat. §§ 893.55 and 893.56 and 893.16)

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	Arbitration/Mediation and Pre-Trial Screening Panels	Expert Testimony & Qualifications	Affidavit/ Certificate of Merit	Statute of Limitations
Wyoming	All cases must be submitted to a pre-trial screening panel, unless both parties agree to bypass the panel. The panel is composed of two health care providers, two attorneys, and one layperson selected by the four professional members. Following an informal hearing, the panel must determine whether there is substantial evidence that the acts complained of occurred and that they constituted malpractice and that there was a reasonable probability that the patient was injured by the acts complained of. The panel's decision, which is based on a majority vote of panel members, is not binding on any party. The panel's decision and any materials submitted to the panel may be admissible in a subsequent trial. The proceedings of the panel are confidential. (Wyo. Stat. 9-2-1513 through 9-2-1523)	None	No	<p>Medical malpractice claims must be brought within two years from the alleged act, error, or omission. If the claimant can prove the alleged act, error, or omission was not discoverable within a two year period, or failed to discover it within the two years despite due diligence then the cause of action must be brought within two years from the date of discovery. (if act discovered during the 2nd year of the two year period from the date of the act, the statute of limitations shall be extended six months)</p> <p>Minor: must be brought before minor's eighth birthday or as above, whichever is greater.</p> <p>Disabled: within one year from the removal of the disability. (Wyo. Stat. 1-3-107)</p>