

MEDIATION INSTRUCTIONS FOR MEDICAL MALPRACTICE CASES

- 1. Selection of Mediator:** Parties shall mutually select the mediator in Medical Malpractice cases **within 30 days** from the later of the filing of the defendant's answer or the defendant's certificate of a qualified expert. Parties must submit a written "Notice of Selection of ADR Provider by Stipulation In Health Care Malpractice Claims" substantially in the form set forth in MD Rule 17-203(c)(1) to the Civil ADR Program by mail or fax (see contact information below).

A sample "Notice of Selection of ADR Provider by Stipulation In Health Care Malpractice Claims" form is available from the court's web site at <http://www.baltimorecitycourt.org/wp-content/uploads/2015/10/Notice-of-Selection-of-ADR-Provider-by-Stipulation-in-Health-Care-Malpractice-Claims.pdf> The Court will issue an Order for Health Care Malpractice Mediation (Agreed) to all Parties.

If the parties fail to select a mediator, the court will assign a mediator and issue an Order for Health Care Malpractice Mediation (Assigned) to all parties. Parties have 15 days from the issuance of the Order for Health Care Malpractice Mediation to file with the Clerk's Office an objection to the assigned mediator and forward a courtesy copy of the objection to the court's Civil ADR Office. If the objection is sustained, a substitute mediator will be assigned.

- 2. Establishing a Mediation Conference Date and Completing Mediation:** Parties, through counsel, shall contact the mediator to schedule an initial conference **within 21 days** of the issuance of the Order for Mediation.

In the event a party or attorney fails to contact the mediator as directed under the court's order, the mediator may schedule the conference without the input of the parties or counsel. The mediator, however, must ensure actual notice of the conference is received by the parties and/or counsel. This may include, but is not limited to, fax, e-mail, registered mail, and special delivery receipts.

Notice of postponement or cancellation: Parties are required to provide the mediator with at least two (2) business days' notice to postpone or cancel mediation. If a party fails to provide the mediator with the required notice, the responsible party is required to pay the mediator his/her fee for the time reserved for mediation.

- 3. Fees:** Court-appointed mediators charge a fee of \$250.00 per hour for all services on an assigned medical malpractice case. Parties are required to share equally in paying the mediator his/her fee. Parties may, by agreement, engage a mediator other than the court designated mediator (as discussed herein) and pay a rate negotiated by the parties.
- 4. Attendance at Mediation:** It is mandatory for all trial attorneys, parties, and parties' representatives having actual settlement authority to attend and participate in the mediation conference. Failure to attend and participate in the mediation may subject the parties and/or counsel to sanctions, including contempt or removal of the case from the trial docket.
- 5. Confidential Mediation Conference Statement:** Parties must complete and send to the mediator the Confidential Mediation Conference Statement (CMCS) form, which is enclosed with the Order for Mediation, at least **five (5) days** prior to the scheduled mediation session. Only the mediator shall have access to the CMCS. Parties should not exchange CMCSs or file them with the court. The mediator shall not share the CMCS with the court.
- 6. Confidentiality:** The mediator shall maintain the confidentiality of all mediation communications and may not disclose or be compelled to disclose mediation communications in any judicial, administrative, or other proceeding, except as provided by law. The parties may enter into a written agreement to maintain the confidentiality of all mediation communications consistent with applicable rule. See MD Rule 17-105.
- 7. Settlement of a Case Prior to Mediation Session:** If the case is dismissed or a settlement is reached with all parties as to all issues prior to the scheduled mediation, parties must notify the mediator, immediately, in writing.
- 8. Surveys and Data-Collection Forms:** It is essential that all data and participant surveys are completed and

returned to the mediator immediately following completion of each mediation. Mediators must complete a Mediator Report for each case *whether or not mediation occurs*. All counsel and parties must complete survey forms provided by the mediator. All forms must be mailed to the Civil ADR Office within seven (7) days of the last mediation session. Failure to abide this requirement will be addressed by correspondence from ADR Supervisory Judge Julie Rubin.

Contact information for the Circuit Court for Baltimore City Civil ADR Office:

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