

# Background on Medical Malpractice

## What has been the role of the courts in addressing the medical malpractice “crisis?”

High medical malpractice insurance rates have caused doctors and health care providers great concern in Pennsylvania in recent years.

While the solution to this problem does not rest with the Pennsylvania Supreme Court, the court issued rules in 2002 to assure that the legal process would not be abused in malpractice cases.

By all accounts, the rules have been very successful in helping address the problem. Since they went into effect, the number of medical malpractice lawsuits filed in Pennsylvania has dropped nearly 45 percent, declining for six consecutive years. In Philadelphia, the judicial district with the largest caseload, the decline has been more than 65 percent in that period.

The number of large medical malpractice jury verdicts also has dropped—from an average of 34 verdicts a year totaling \$1 million or more between 2000 and mid-2003 to 16 such verdicts in 2011. [More....](#)

Two of the rules have been especially effective. The first requires lawyers to file malpractice claims in the county where the alleged malpractice occurred. This eliminated a practice of “venue shopping” in which lawyers might file cases in counties where they believe juries would be most sympathetic to their clients.

A second rule requires every lawyer who initiates a medical malpractice suit to file a “certificate of merit” signed by a licensed medical professional to support the claim. The certificate must assert a “reasonable probability” that the medical treatment under dispute failed to meet “acceptable professional standards” of care.

The Supreme Court also has encouraged mediation in medical malpractice disputes as an alternative to litigation and trials.

*Revised November 2012*

