

NEWS RELEASE

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Court Announces Rules Changes in Med-Mal Litigation

HARRISBURG, August 20, 2004 — Chief Justice of Pennsylvania Ralph J. Cappy today announced three changes to the state's Rules of Civil Procedure governing aspects of medical malpractice litigation. These changes join three earlier civil rules' changes or additions with respect to med-mal issues, dating back as far as March, 2003.

“The rules being promulgated today are additional steps, with real value, in further demystifying the complex issues of trying medical malpractice cases in Pennsylvania's courts and supporting alternative adjudicatory procedures for those cases,” said Chief Justice Cappy. “Our efforts are but part of the med-mal puzzle that engage all three branches of state government and interested parties, but they further demonstrate our commitment to help understand and resolve legitimate concerns.”

Newly-adopted Rule of Civil Procedure 223.3 mandates a specific charge (instruction) by a presiding judge to a jury deciding a case involving bodily injury or death where a claim for non-economic loss is sought by the plaintiff. While the specific jury charge may be modified by agreement of both parties, the charge set forth in the new rule aims to define the components of non-economic damage claims and awards in clearly understandable terms for jurors. The rule also lists specific factors that jurors shall consider when deliberating non-economic damage awards. This rule will apply in all negligence litigation involving a claim for non-economic damages.

A second new rule, Rule of Civil Procedure 1042.71, implements section 509 of the Mcare Act and requires a breakdown of every verdict into certain categories, thus facilitating prior orders of the Supreme Court which require statistics to be kept.

A third new civil procedural rule, Rule 4011, adds to provisions of an existing rule limiting the scope of discovery and deposition and in conformity with current state law which provides that most mediation communications and documents are privileged. These amendments will enhance the role of the mediation process as an important tool in helping to effectively decide medical malpractice cases.

Among other steps taken by the Supreme Court of Pennsylvania regarding medical malpractice issues are:

- o a rule to ensure that med mal cases are heard in the proper venue;
- o rules to speed med-mal litigation by requiring pre-certification of med-mal claims and early disclosure of expert reports;

(MORE)

- o the requirement that by January 1, 2005 all Pennsylvania jurisdictions that deal with med-mal claims will have a mediation program in place to provide “early intervention” in cases; and
- o the requirement that local courts begin collecting additional data on med-mal cases that will – in the long term – help all parties to better understand these complex issues.

Additionally, Pennsylvania’s court system announced in late July its creation of an electronic “one-stop shop” – a med-mal-related web page on the Judiciary’s Web site (www.courts.state.pa.us) – to centrally locate all efforts, statistics, rules and related topics within the Judiciary’s purview regarding medical malpractice issues.

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