

Article - Courts and Judicial Proceedings

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§3-2A-06C.

(a) (1) In this section the following words have the meanings indicated.

(2) “Alternative dispute resolution” means mediation, neutral case evaluation, neutral fact-finding, or a settlement conference.

(3) “Mediation” has the meaning stated in Title 17 of the Maryland Rules.

(4) “Mediator” means an individual who conducts mediation.

(5) “Neutral case evaluation” has the meaning stated in Title 17 of the Maryland Rules.

(6) “Neutral fact-finding” has the meaning stated in Title 17 of the Maryland Rules.

(7) “Neutral provider” means an individual who conducts neutral case evaluation or neutral fact-finding.

(8) “Settlement conference” has the meaning stated in Title 17 of the Maryland Rules.

(b) (1) This section does not apply if:

(i) All parties file with the court an agreement not to engage in alternative dispute resolution; and

(ii) The court finds that alternative dispute resolution under this section would not be productive.

(2) In determining whether alternative dispute resolution would not be productive under paragraph (1)(ii) of this subsection, the court may consider whether the parties have already engaged in alternative dispute resolution.

(c) In addition to the qualifications and requirements of Title 17 of the Maryland Rules, the Court of Appeals may adopt rules requiring a mediator, neutral provider, or individual conducting a settlement conference to have experience with health care malpractice claims.

(d) Within 30 days of the later of the filing of the defendant’s answer to the complaint or the defendant’s certificate of a qualified expert under § 3-2A-04 of this subtitle, the court shall order the parties to engage in alternative dispute resolution at the earliest possible date.

(e) (1) Within 30 days of the later of the filing of the defendant's answer to the complaint or the defendant's certificate of a qualified expert under § 3-2A-04 of this subtitle, the parties may choose a mediator, neutral provider, or individual to conduct a settlement conference.

(2) If the parties choose a mediator, neutral provider, or individual to conduct a settlement conference, the parties shall notify the court of the name of the individual.

(f) (1) If the parties do not notify the court that they have chosen a mediator, neutral provider, or individual to conduct a settlement conference within the time required under subsection (e) of this section, the court shall assign a mediator, neutral provider, or individual to conduct a settlement conference to the claim within 30 days.

(2) (i) Within 15 days after the parties are notified of the identity of the mediator, neutral provider, or individual conducting a settlement conference, a party may object in writing to the selection, stating the reasons for the objection.

(ii) If the court sustains the objection, the court shall appoint a different mediator, neutral provider, or individual to conduct a settlement conference.

(3) A mediator, neutral provider, or individual conducting a settlement conference shall follow the "Maryland Standards of Practice for Mediators, Arbitrators, and Other ADR Practitioners" adopted by the Court of Appeals.

(g) The mediator, neutral provider, or individual conducting a settlement conference shall schedule an initial conference with the parties as soon as practicable.

(h) (1) At least 15 days before the initial conference, the parties shall send to the mediator, neutral provider, or individual conducting a settlement conference a brief written outline of the strengths and weaknesses of the party's case.

(2) A party may not be required to provide to another party the written outline described in paragraph (1) of this subsection.

(i) (1) Alternative dispute resolution under this section may not operate to delay discovery in the action.

(2) If the mediator, neutral provider, or individual conducting a settlement conference finds that the parties need to engage in discovery for a limited period of time in order to facilitate the alternative dispute resolution, the mediator, neutral provider, or individual conducting a settlement conference may mediate the scope and schedule of discovery needed to proceed with the alternative dispute resolution, adjourn the initial conference, and reschedule an additional conference for a later date.

(j) A neutral expert may be employed in alternative dispute resolution under this section as provided in Title 17 of the Maryland Rules.

(k) In accordance with Maryland Rule 17-109, the outline described in subsection (h) of this section and any written or oral communication made in the course of a conference under this section:

- (1) Are confidential;
- (2) Do not constitute an admission; and
- (3) Are not discoverable.

(l) Unless excused by the mediator, neutral provider, or individual conducting a settlement conference, the parties and the claims representative for each defendant shall appear at all conferences held under this section.

(m) A party who fails to comply with the provisions of subsection (h), (k), or (l) of this section is subject to the sanctions provided in Maryland Rule 2-433.

(n) (1) If a case is settled, the parties shall notify the court that the case has been settled.

(2) If the parties agree to settle some but not all of the issues in dispute, the mediator, neutral provider, or individual conducting a settlement conference shall file a written notice of partial settlement with the court.

(3) If the parties have not agreed to a settlement the mediator, neutral provider, or individual conducting a settlement conference shall file a written notice with the court that the case was not settled.

(o) Unless otherwise agreed by the parties, the costs of alternative dispute resolution shall be divided equally between the parties.

(p) An individual who conducts alternative dispute resolution shall have the immunity from suit described under § 5-615 of this article.

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