

Mediation is an alternative way of settling a legal dispute without using the court system. A recent uptrend in the use of mediation has caused a noticeable decline in civil lawsuits across the state of Pennsylvania. In 2010, people in Pennsylvania filed 140,764 civil cases, which was a 21 percent decline from 2006.

There has been steady growth in mediation of medical malpractice cases in Pennsylvania because physicians want to try to control their liability exposure to patients.

There are a handful of reasons for the increased use of mediation. One of the largest factors is the cost of litigation. Civil trials can be expensive, as they require filing fees and often involve expert witnesses, who charge hourly. The wait can also be longer before the case is heard.

On the other hand, mediation does not always end with an agreement. By definition, mediators do not have the power to make an independent decision on the outcome. Should mediation be unsuccessful, the parties may feel as if the process was worthless and merely further postponed a final resolution in their case.

Mediation has both its benefits and drawbacks. The benefits of mediation include:

- Lower costs involved
- Saves time: reaching a resolution takes hours or days versus months or years
- More control over proceedings
- Mediators are independent outside parties
- Quicker resolutions
- If an agreement is reached through mediation, it is legally binding
- Both parties must approve and sign any agreements reached
- Predictable outcomes
- Either side can withdraw at any time
- Using the court system is still an option

The drawbacks of mediation include:

- Bad faith negotiations: if one or both parties withhold information or are unwilling to make concessions to come to a mutual agreement it can become a waste of time and money
- Differences in mediator bias and ability: each mediator's abilities and biases can vary case by case and it

can result in an unfavorable agreement

- Information is not made public: information about one party's harm will never be known publicly to dissuade them from similar future behavior

So while mediation can be an effective tool for some, it is important to be educated before making a decision on which avenue to pursue. In such cases, an experienced medical malpractice attorney can assist in making the decision based on the unique circumstances of each case.