

PROCEDURAL ASPECT OF MEDIATION IN MEDICAL CONFLICTS

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The article discusses the procedural aspect of mediation as a way to resolve conflicts in the health sector. The article focuses on the definition of a conflict in the medical field and how it should be resolved.

The term "mediation" is used in world practice and refers to a multivariate procedure that is aimed at resolving a legal conflict on its own by involving a third party.

What is a medical conflict? Which of them are the most common? Is it always possible for the head of the medical facility or its staff to cope with medical conflicts? When do they need some unbiased assistance? Where can you ask for help? What is better: go to the hospital or the court, visit a prosecutor or a mediator?

Health care disputes are characterized by the specificity of the matter in dispute, uncertainties or ambiguities in the evidence, the difficulty of obtaining reliable evidence and, consequently, the need for various expert examinations. Patients do not often have the opportunity to make their case due to the lack of special knowledge and financial means to turn to legal services for help [1].

The situation in health care disputes is not as clear as it seems at first glance. A patient is not always weak and offended. Medical institutions often become victims of litigation and objects for criticism in the media, incur financial losses, and in some cases have no opportunity to continue medical practice due to such facts as the lack of competent document flow, untimely and inaccurate filling of medical documents of the patient, the inability to prove their innocence. Therefore, the pre-trial dispute settlement procedures, ideally, is the fastest and least expensive way to resolve conflicts that have arisen.

Although mediation is a very effective and successful way of resolving a conflict, in our society people are quite skeptical about the mediation procedure: people do not believe that they will manage to come to a mutually beneficial solution and the agreement will be executed. One of the reasons for this is a lack of understanding about how mediation works and what happens in mediation, when it is used and how the mediation process can be started [2].

The value of mediation is that a patient and a doctor (or medical facility) begin to hear each other. This is very important, because only in a constructive dialogue each side finds the right tone and behavior vector to reduce conflicts; systemic errors, shortcomings in the work of some doctors and institutions are identified, respect for medicine and doctors is growing.

As a result of effective negotiations, on the one hand, the patient's problems are solved and his main interest, health, is satisfied, on the other hand, the good name and business reputation of the doctor or medical organization is preserved if the case is not publicized for various reasons.

Health care disputes are relevant at the present time. Take, for example, a situation where in the course of providing dental care a patient has been suffered. Publicity is subject to information that is personal to both parties. Disclosed information about both the health and life of the patient and about the defects in dental care, errors of the medical corps, which in the current competition causes irreparable damage to the company before the process is completed and regardless of its outcome [3].

In this case, mediation will be the most appropriate way to resolve the conflict. The mediator must be good at organizing and conducting negotiations, know the technique of asking questions, master rhetoric and argumentation in order to persuade people to reduce conflicts quickly and effectively. In their activities, mediators use various techniques that are a productive tool for the mediator to work with the parties. Among them the most common are brainstorming, doubling, changing roles, PMI method.

Brainstorming technique can be used to resolve this conflict. Braistorming is the most popular method for resolving a conflict situation and helps to find alternative ways to resolve disputes. This method implies that all participants will take an active part in the search for a good way to solve the problem. The essence of the method is to develop the maximum number of versions to resolve a conflict situation in a short period of time.

To resolve this situation, it is necessary go through 3 stages:

1. To formulate the problem is a stage of forming an idea. It is formed a working group and distributed the roles among the participants in accordance with the problem. In our situation, this is an inadequate provision of dental care to the patient, as a result of which the patient's health has deteriorated. The participants will be a patient and a dentist.

2. Generation of ideas. Participants are encouraged not to focus on the best variant, because for each their own variant is the best, but to develop as many variants as possible and opt for those which are more interesting. Variants may be different. From a free massage to the compensation payment and the elimination of health problems. Questions for brainstorming can be both general "What solutions do I see?" and narrower "What am I ready to do to resolve a conflict?" Initially, variants are not evaluated and not criticized. Here it is important to formulate as many ideas as possible. You can write down your ideas on a piece of paper. When both the patient and the doctor together or individually formulate variants, and then come together and discuss them. In court, there would be no opportunity to search for ideas that would suit both parties [4].

3. Selection of ideas. Participants express and evaluate their variants and look for one that will suit everyone. Upon the conflict completion, it is advisable to analyze the errors of their own behavior, summarize the knowledge and experience in solving the problem; try to normalize relations with a recent opponent; remove discomfort (if it arose) in relationships with others; minimize the negative consequences of conflict in their own condition, activity and behavior.

During the gathering of ideas and their subsequent development, mediators can make suggestions if they have the impression that participants have not yet seen meaningful approaches to resolution. Nevertheless, it should be in an unobtrusive manner, so that the parties have the opportunity to refuse them. They can be expressed, for example, by such a phrase as "What if you resolve the dispute by offering a free medical service?" Such a phrase has less influence on the decision process than the phrase: "I offer you" [5].

Using the brainstorming technique, participants of medical conflicts can quickly form some ideas to resolve a conflict situation, quickly explain them and estimate them. Medical activities are complex in structure, number of subjects, and specific relations. The potential for conflict is objectively high here. And the mediation can help effectively in this case. But not instead of other methods, but together. It is necessary to remember the basic principles of mediation that are voluntariness, trust, cooperation, confidentiality. It is easier to achieve better results with their help.

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