

Hamline University School of Law
Dispute Resolution and Health Law Institutes



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Bibliography

The Fall 2007 Biennial Symposium on Conflict Resolution:
An Intentional Conversation About Conflict Resolution in Health Care
November 8-10, 2007 Saint Paul, Minnesota

This document is a work in progress. Please email your suggestions for additions to Sukhsimranjit Singh, DRI Postgraduate Fellow ssingh01@hamline.edu. No claim is made that this is a comprehensive catalogue of resources; rather this bibliography has been intentionally tied to the anticipated themes of the Symposium. We hope the bibliography will be helpful for all those participating, as well as for those with general interest in the field.

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SYMPOSIUM THEME AND SESSION DESCRIPTIONS

The American health care system affects every man, woman and child in our country. It encompasses over 15% of our Gross Domestic Product. Costs of care continue to rise and insurance premiums routinely increase at double-digit rates. Regulators and health care managers impose policies that affect medical decisions and access to treatment. Advertising and internet research drive patient medical requests while the threat of malpractice claims impacts physician judgment and decision-making. Ultimately, fewer Americans can afford the high price of health and many feel disengaged from crucial health and life decisions.

At the same time, we hold onto important myths about our system: that doctors and patients are still in charge of our medical decisions; that the American system promotes egalitarian principles of fairness and open access to the finest care in the world; that individual citizens have real choices about the management of their health. This intractable clash between myth and reality has consumed policy-makers and fueled conflict at many levels for years.

This clash between myth and reality is even more complex in light of our rapidly changing society. Health care decisions are influenced by different and competing value systems: an increasingly diverse and aging population of patients; a growing universe of traditional and non-traditional health care providers; the ever-expanding role of third-party payors; suppliers promoting rapidly changing technologies and marketing directly to patients; policy-makers who promote increasingly divided ideologies and regulators caught in the middle. The result is an overwhelmingly complex set of challenges that provoke conflict at all levels.

How do we move forward? How can professionals from the conflict resolution field be constructive partners with health care professionals in working through these many difficult and complex conflicts? The 2007 Symposium on Advanced Issues in Dispute Resolution addresses these two questions.

Recognizing that the system cannot be easily “fixed” or the problem “solved,” the 2007 Symposium will specifically focus on how health care professionals and conflict resolvers can work together to identify essential guiding principles for addressing conflicts across the health care field. The Symposium will bring nationally recognized representatives of patients, health care providers, payors and regulators together with experienced conflict resolution professionals to identify and articulate a key set of principles for responsible decision-making in health care conflicts.

Session One: Building a Context for Conversation – What Makes Health Care Conflicts Different?

Given the complexity of health care, the challenge of where to begin addressing its conflicts can be daunting. Session one builds a context for our conversation by framing

key questions that will help participants discern the scope and complexity of health care conflicts.

Core questions to be addressed in Session One include:

- What role does increased patient access to information and the proliferation of direct advertising play in creating conflict?
- How do increased patient life-span and rapidly improving, yet costly, technologies increase conflict?
- How does the life-and-death nature of health decisions impact decision-making and conflict?
- What is the impact of the uninsured segment of the population on health care decision-making?
- What are the inherent tensions between patients, providers, payors and regulators?
- How do the economic peculiarities of the health care field complicate decision-making at all levels?
- How does the health care field's heavily regulated environment – including mandatory reporting -- impact disputes and disputing?
- Is the care of health an entitlement that changes how we understand/address conflicts?
- How does the culture of health care contribute to adverse outcomes that result in inter and intra-organizational conflicts?
- How will a decreasing availability of experienced health care professionals impact conflict within care settings?

Session Two: Developing Guiding Principles for Addressing Patient Care Disputes

Patient-provider conflicts arise from a range of situations, including adverse outcomes, treatment timing and location, decisions over appropriate treatment plans, whether and when to discontinue treatment, and many others. These tensions are exacerbated by existing conflicts among health professionals within patient-care settings. This session focuses on representative examples of patient care challenges and provides a forum to identify principles for constructive resolution of such conflicts. Theme leaders will model a conversation about how to identify conflict resolution principles, followed by small group break-out sessions where participants will themselves develop helpful principles for addressing such conflicts.

Session Three: Developing Guiding Principles for Health Coverage Disputes

An ever-increasing number of conflicts in the health care field arise in relation to coverage. A patient's request for a specific drug or treatment often results in a conflict seen through a variety of lenses: that of the employer who seeks to contain costs; the payor who carefully designs coverage limits; the regulator who weighs in on what constitutes mandatory benefits; the patient who expects treatment to be covered, and the provider who struggles with managed care guidelines, ethical responsibilities and

stringent fraud and abuse laws. Additional complications arise in cases of poor quality care, where questions surface of who, if anyone, should pay and what information should be provided to patients about these disputes. The different perspectives of patients, providers and payors create profoundly different expectations and understandings of what can and should be done regarding health coverage. Following an opening conversation about the challenges of coverage disputes, participants will again meet in small groups to identify principles for constructive conflict resolution.

Session Four: Developing Guiding Principles for Addressing Disputes in the Area of Provider Competency

A third category of conflicts in the health care field arises in relation to provider competency. This discussion will focus on provider conflicts, including those over the granting of “privileges” and credentialing of practitioners by hospitals; the complaint and discipline process by health licensing boards; and the credentialing (and de-credentialing) of providers by managed care organizations. We will examine in small groups how conflict resolution is impacted by the peer review privilege, current credentialing mechanisms, mandatory reporting obligations and physicians’ ethical obligations

Session Five: Synthesis

The previous sessions have addressed different categories of conflicts in the health care field. This final session will synthesize the insights that emerged from earlier sessions and will seek to identify an over-arching set of principles for addressing a wide variety of health-care conflicts. Moreover, we will consider whether these declared conflict resolution principles are helpful in addressing much larger policy challenges facing the American health care system.

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AMA, Commission on Health Care Dispute Resolution Process, (<http://www.ama-assn.org/ama/pub/category/6074.html>)

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Health Care Resolutions (<http://www.healthcareresolutions.com/about.php>)

National Arbitration Forum (<http://www.adrforum.com/main.aspx?itemID=301&hideBar=False&navID=82&news=3>)

National Library of Medicine and National Institute of Health (<http://www.pubmed.gov>.)

ADR and Health Care Organizations

American Health Lawyers Association (www.AHLA.org)
Professional association for health lawyers (maintains a panel of mediators and arbitrators with health law background).

Health Care Mediations, Inc. (www.Healthcaremediations.com)
Mediation, training and system design services for health care organizations.

Health Care Negotiation Associates (www.HCNA.net)
Providing negotiation and consulting services for health care organizations.

The Mediation Group (www.themediationgroup.org)
Providing ADR services in multiple content areas including healthcare.

Health Care Organizations

- [National Patient Safety Foundation](#)
National association dedicated to improving patient safety within the nation's health care facilities.
- [American Medical Association](#)
Professional association for physicians.
- [American Hospital Association](#)
Professional association for hospitals and other health care facilities.
- [American Nurses Association](#)
National nursing association.
- [American College of Healthcare Executives](#)
Professional association for health care executives and managers.
- [American Medical Group Association](#)
Professional association for medical group practice managers and physicians.
- [Joint Commission of Accreditation of Healthcare Organizations](#)
National accreditation association for hospitals.
- [American Society for Healthcare Human Resources Administration](#)
Organization for professionals in health care human resources administration and management.
- [American College of Physician Executives](#)
Professional organization for physician executives and managers.
- [American Organization of Nurse Executives](#)
National association for nurse executives and nurse managers.
- [National Information Center for Health Services Administration](#)
Center for research and information related to health services administration.

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