Annotated Bibliography

**Using Alternative dispute resolution (ADR) in resolving malpractices while limiting or with no litigation**

**Introduction**

Alternative dispute resolution (ADR) denote to mechanisms utilized to address conflicts without filing court cases. The cost of health care and malpractice continue to escalate, and it is estimated that close to $150 billion is lost yearly in the U.S. because of malpractice claims. Therefore, the need to use mechanisms like mediation, arbitration, and even early apology as well as Biblical-based dispute resolution is important. The implication is that parties in a medical malpractice claims can solve their issues outside the court thereby saving money as well as time. Called to be part of the administrative team, as healthcare manager, one of the roles is managing smoothly operations by ensuring conflicts are effectively resolved. As such, ADR can offer a process that allows parties to come together and seek effective resolutions as shall be demonstrated by different research articles through this annotated bibliography.

**Bernero, L. (2018). Biblical Conflict Resolution. Retrieved from**

 **https://denverinstitute.org/the-process-of-biblical-conflict-resolution/**

In this article, the author offers a perspective on how the Bible directs and informs believers to resolve conflicts. These directives and information are critical on how believers practice as professional attorneys and mediators. The article emphasizes the need for these professionals and other to seek mediation and other aspects of ADR as opposed to litigation when handling malpractice cases. Conflict leads to feelings that may make an individual doubt God’s goodness as well as His will and love for people. The implication is that Christians should seek the ways of resolving conflicts in their professional lives in the most biblical way as an aspect of reverence to God.

**Black, J. (2018). Conflict Management and Team Building as Competencies for Nurse**

**Managers to Improve Retention. DNP Qualifying Manuscripts, 9. Retrieved from https://repository.usfca.edu/cgi/viewcontent.cgi?article=1008&context=dnp\_qualifying**

In this article, the author reviews and summarizes evidence associated with coaching and training of nurse managers in managing conflicts and possession of team building skills that lead to employee retention. The author acknowledges that many institutions face challenges in retaining nurse managers because of poor approach to conflict resolutions. As such, the article stresses the need for organizations to have capability to recognize conflicts early and strategize the requisite action in addressing core issues. The source asserts that effective management of conflicts leads to progress and improves trust as well as professional interactions. These attainments lead to increased productivity and optimal patient care delivery outcomes. The implication is that administrators and managers should include conflict management approaches and team building as core competencies for hiring nurse managers.

**Fiadjoe, A. (2014). Alternative Dispute Resolution: A Developing World Perspective.**

 **Taylor & Francis Ltd.**

The book advances that the use of alternative dispute resolution mechanism is critical in mitigating the adversarial nature of litigation, especially for businesses and professional practitioners in different professionals in developing world. The author notes that ADR techniques are effective in these settings because they consider the cultural differences, financial effects, emotions that may flare, and publicity of such events when seeking solutions to malpractice. The book also advances that the peculiar experiences in the developing world as well as impact of globalization make ADR an appropriate approach to disputes in many situations.

**Kass, J. S. & Rose, R. V. (2016). Medical Malpractice Reform: Historical Approaches,**

**Alternative Models, and Communication and Resolution Programs. *AMA Journal of Ethics*, 18(3); 299-310.**

The authors not that ADR models are critical in reforming the adversarial nature of the litigation system when medical errors occur in healthcare settings. The article advances that a reformed medical malpractice approach should acknowledge that medical errors are injurious to patients and occur in significant malpractice situations. Therefore, through ADR models, both parties, healthcare providers and patients, increase their transparency and honest discussion. As such, healthcare providers and systems improve quality delivery and become ethical and truthful while patients get compensation for negligent harm caused by the providers.

**Lee, D. W. H. & Lai, P. B. S. (2015). The Practice of Mediation to resolve clinical,**

**bioethical, and medical malpractice disputes. *Hong Kong Medical Journal*, vol. 21: 560-564.**

In this article, the researchers advance that mediation is an ADR mechanism that entails having a neutral and impartial third party who facilitates negotiations and communication between conflicting parties to attain an amicable settlement when a malpractice occurs in health care settings. The article emphasizes that unlike a court process that is adversarial, mediation is relevant in clinical practice as it facilitates effective communication and helps in bioethical decision making. The authors emphasize the need for mediation compared to civil litigation.

**Mckbben, L. (2017). Conflict Management: Importance and Implications. *British Journal***

 ***of Nursing (Mark Allen Publishing),* 26(2): 100-103.**

In this source, the author asserts that conflicts are regular and inevitable events in healthcare teams. The article emphasizes that while nurse leaders and managers have training on conflict resolution approaches, issues like staff relations, stress and retention persist. The paper discusses the idea of conflict and why it is critical for administrators to address causes of conflict, and need for effective management, as well as the importance of approaching conflict resolution from a positive perspective. the article emphasizes the need to have a positive approach to conflicts to enhance safe and effective care delivery while imploring stakeholders to have therapeutic relationships among employees and administrators. In addition, the article asserts that sound leadership, developing mutual respect and team dynamics as well as effective communication lead to positive work settings for administrator managing healthcare teams.

**National Arbitration and Mediation, & Worden, B. (2020 March 11). Resolving Medical**

**Malpractice Matters - Positive Outcomes Through Mediation. Retrieved from https://www.jdsupra.com/legalnews/resolving-medical-malpractice-matters-44779/**

In this source, the authors discuss the benefits of using mediation to resolve malpractice disputes in healthcare settings. They posit that mediation is a process that enables both parties to have control on the resolution process and mitigates the litigation costs. Further, it expedites dispute resolution for all parties involved. However, the article observes that mediation in malpractice issues presents challenges. The authors note that due to the nature of medical malpractice claims, the environment during such events is tense and negotiations become emotional. Imperatively, players must understand the nuances of medical malpractice issue whether they are representing parties or are neutral and want to assist those involved attain an amicable solution.

**Nussbaum, L., (2017). Trial and Error: Legislating ADR for Medical Malpractice Reform.**

**Scholarly Works, 1011. https://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=2035&context=facpub**

In this article, the author observes that the healthcare system in the United States is experiencing reforms with a view of reducing the millions of deaths and injuries that occur because of health problems that include malpractices. Medical malpractice is an endemic problem that requires use of different and novel approaches. The article posits that the model that will help to change the process is the use of alternative dispute resolution. By modeling Oregon’s innovative approach to ADR, the article is categorical that using the approach leads to better and quality service outcomes compared to litigation. The article demonstrates that ADR as an alternative is promising and may achieve successes where other programs have failed in the state. The ADR approach leads to additional protections for increased patient fairness as well as providers and the community.

**Ong, C. (2013). Medical Mediation: Bringing everyone to the table. Bulletin of the**

**American College of Surgeons. Retrieved from https://bulletin.facs.org/2013/03/medical-mediation/**

In this source, the author is categorical that ADR approach provides more benefits compared to the traditional litigation process that discourages discovery as well as discussion concerning the main cause of malpractice in medication. When errors occur, both patients and providers fear taking litigations since they are expensive and hinder effective communication between the parties. As such, mediation as an ADR mechanism improves communication and allows parties to reach a solution outside the courtroom. More fundamentally, ADR can be used before, during, and even after litigation.

**Pozgar, D. G. (2019). Legal Aspects of Health Care Administration. Jones & Bartlett Learning; 13th edition. ISBN-13: 978-1284127171**

The book provides thorough overview of the ethical and legal aspects that involve healthcare organizations and particularly their administration. Through various case studies, examples, Pozgar (2019) demonstrates, and explains many legal conflicts with an approach of solutions to some of the complex issues that affect healthcare in the modern world. The book illustrates some of the processes of litigation and helps highlight the various issues associated with litigation. The author analyzes the use of alternative dispute mechanisms especially, arbitration and mediation in the context of healthcare administration. The author takes the liberty to define many legal terminologies.

**Shore, M. (2016) Religion and Conflict Resolution: Christianity and South Africa’s Truth**

 **and Reconciliation Commission. Ashgate Publishing Ltd.**

In this book, the author examines the role played by Christians in the truth and reconciliation efforts in South Africa. The author observes that religious practices play a critical role in conflict resolution and in most cases advocate for alternative dispute resolution mechanisms as opposed to litigations. Religious traditions seek peace and respect for all in society as a critical aspect of doing justice as required by Christian teachings. Therefore, the book highlights the need for Christians to show compassion and seek alternative justice approaches as opposed to the adversarial nature associated with court processes.

**Sohn, D. H. & Bal, S. (2012). Medical Malpractice: The Role of Alternative Dispute**

 **Resolution. *Clinical Orthopedics and Related Research*, 470(5): 1370-1378.**

The article emphasizes that alternative dispute resolution is critical since litigation as the main means of resolving disputes is costly and irrational. The article advances that ADR has the ability to assist in changing the present tort approach, mitigating costs, and enhancing parties’ satisfaction because it is not an adversarial approach. The article notes that close to $130 billion is used each year on cases in medical malpractice. However, ADR techniques like early apology can lead to successful resolution without court interventions.

**Szmania, S. J., Johnson, A. M., Mulligan, M. (2008). Alternative dispute resolution in**

**medical malpractice: A survey of emerging trends and practices. *Conflict Resolution,* 26(1); 71-96.**

The article provides a summary of the survey outcomes from thirteen entities that provide ADR in cases that involve malpractice in healthcare. The article provides different types of disputes that these entities have handled and the challenges as well as successes attained through the programs. The article also evaluates legislation on malpractice litigation in healthcare. As such, the authors emphasize that ADR mechanisms offer an opportunity for players to enhance their communication as a fundamental aspect of resolving conflicts when unexpected errors occur in healthcare settings.

**Analysis**

It is evident that when parties resolve their issues through ADR, they involve a neutral third party who focuses on the objective matters raised by both. The role of a mediator, arbitrator or negotiator is to facilitate communication through dialogue between the conflicting parties. The mediator does not make decision concerning the settlement of claims. As such, these articles demonstrate that malpractice cases in healthcare lead to costly and time-consuming litigations which hinder effective communication between the parties. The research will focus on the causes of medical malpractice cases and their effects on care delivery, especially for nurse practitioners who care for patients as advocates. The research will consider all aspects of alternative dispute resolution as a new framework that can help practitioners and healthcare systems to be more transparent, improve quality through engaging patients, and seeking resolutions that allow increased and effective communication with the patients. The research will seek better ways for players in the sector to embrace ADR as a transformation approach based on biblical teachings in solving cases that arise in medical malpractice. Reducing the use of courtroom process is a core component of enhancing better interactions among the parties when a medical error occurs.