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БИОЛОГИЯ ЖӘНЕ МЕДИЦИНА
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**NEW TRENDS OF MEDICAL MEDIA
IN TRAINING AND PRACTICE**

Abstract. According to the authors, the solution of emerging conflicts in the field of medicine can be solved with the help of mediators. Mediation is used to resolve problems and disagreements in the sphere of labor relations, professional disputes, problems in the construction industry, education and health care, conflicts in the domestic sphere. Public and private organizations and companies are adopting mediation to resolve internal and external conflicts in their daily activities. Courts of law and legal advice consider mediation as an opportunity to resolve contradictions arising from the treatment. Consequently, professionals in various fields increasingly have to act as initiators of mediation on voluntary terms.

Keywords: mediation, medicine, conflicts, negotiations, procedure, dispute, decision.

Introduction. Mediation is a special technology for resolving a conflict through negotiations with the participation of a specially trained mediator-mediator. Mediation is widespread in world practice. In Europe and the US, the use of mediation in settling a wide variety of conflicts has long been considered very effective and at the same time low-cost.

In mediation, one of the fundamental principles is voluntariness of participation and equality for parties actively involved in the dispute resolution process. They are and remain the "owners" of the conflict. "Empowering" the development and decision-making, the parties themselves, the mediator promotes them in the joint search for a viable, mutually satisfying solution. "Empowerment" by the parties is one of the key features and at the same time the advantages of mediation as a modern method of dispute settlement, which contributes to its relevance. The dissemination of mediation, its integration into the legal culture is one of the manifestations of sensitive reaction of legal practice to the demands of the modern world. At the same time, professional lawyers are responsible for informing and educating citizens about the possibilities of using ARS and mediation in particular. Challenges of the time in relation to the legal profession require the redefinition of the role of all its representatives, and thus the redefinition of the existing traditional dispute settlement system to some extent. Depending on the legal profession, the role, capabilities, approaches and tools for this mission can and should be different.

The meaning of complexity arises from the principle of the integrity of the educational process and is being implemented at the various levels.

Main part. On the one hand it is the unity of professional and vocational training for employment; the unity of the classroom and extracurricular work on the subject, the unity of the individual and collective work of students, their self-cognitive activity and work under the guidance of a teacher.

Advantage of mediation:

- Resolution of the conflict without trial on a voluntary and equal basis by the parties themselves, saving time, money, emotional forces and energy.
- The conflict is strictly confidential.
- The decision is made only by the parties themselves, taking into account the satisfaction of the interests of each party to the dispute.

In civilized countries, a method of settling conflicts or disputes through a mediator, that is, an independent mediator, whose assistance consists in the search for alternative conditions in the resolution of the conflict by the parties themselves has long been used. The practice of mediation shows that most of the disputes do not reach the court or end in court thanks to the help of professional mediators.

According to the Law of the Republic of Kazakhstan "On Mediation", the mediation procedure has the right to conduct a mediator, i.e. an independent natural person involved by the parties to conduct mediation on a professional and unprofessional basis in accordance with the requirements of the Law (Article 9). [Thus, the existing mechanism, on the one hand, does not presuppose the necessary conciliation procedures for the parties to the dispute on the other hand, does not contain genuine guarantees that the mediation will be properly conducted.

An alternative to this concept could be additions based on the positive experience of implementing the associated model in some foreign countries.

In the framework of experiments on working out mechanisms of interaction between courts and mediators, reconciliation rooms were organized directly in the courts, where practicing mediators could advise the parties on the possibility of conciliation proceedings on their dispute and invite them to use the services of a specific organization or professional mediator. As a rule, such counseling was conducted by mediators on a free basis and only at the first stages of the project implementation, since it does not directly relate to the activity of the mediator, is time-consuming and conducted on a gratuitous basis.

At later stages of the projects, as a rule, the parties explained their right to mediation to judges, many of whom received appropriate training. The experiments showed a positive dynamics in the growth of the number of consultations and ongoing mediation procedures, which required the preparation of additional professional mediators and their involvement in ongoing projects. The increase in the number of mediation procedures conducted has also proved the viability of the chosen model. However, if a large number of courts, professional mediators and organizations responsible for the procedure are involved in judicial mediation practice, there will be a need for more coordinated coordination and direction of the parties to the dispute for mediation. Here, one can combine the first experience of "reconciliation rooms" with the institution of "judicial coordinators", known to some foreign countries.

Establishment of judicial coordinators in courts would significantly improve the effectiveness of implementing the associated model of forensic mediation. On the one hand, they would assume the responsibility for advising the parties on the possibility of using mediation, would be engaged in providing the parties to the dispute with the necessary information about mediation and mediators active in the settlement on the court site.

On the other hand, they can become a contact person for private mediators and organizations, interact with the regional offices of SRO mediators, maintain judicial registers of mediators, monitor and collect statistics related to mediation.

The creation of the post of judicial coordinator would have made it possible to spare judges the need to explain to the parties the advantages and bases of mediation, to assess the suitability of the dispute for mediation settlement (mediableness).

The parties to the dispute would have the opportunity to obtain all the necessary information related to the conciliatory procedure that are in effect at the trial by professional mediators, organizations responsible for quality control of procedure and attracting mediators to disciplinary responsibility. The judicial coordinator could become a key figure for the development of judicial mediation on the associated model.

As judicial coordinators, persons who have completed training under the state program of training professional mediators and who have a higher legal education could act. This will allow the judicial coordinator not only to understand the intricacies of the legal relations existing between the parties, but also be able to analyze the conflict and give a full consultation on the procedure for mediation and its possibilities. At the same time, the judicial coordinators themselves should not engage in the conduct of the mediation procedure. They only coordinate the procedure for referring the parties to mediation and their return to court with the corresponding result. They are also a contact person in court for the parties and the mediator on all issues related to the procedure of mediation in a judicial dispute.

Inclusion of a mediator in the court register does not mean acceptance of the court for his activities, but relieves the judges from the need to verify the availability of the mediator's documents on the

completion of training under the state program for training professional mediators and fulfilling other statutory requirements.

The verification of these data will be carried out once by the judicial coordinator when the data on the judicial mediator is included in the court register, which will greatly simplify the work of the courts and their interaction with the judicial mediators. Even if the idea of creating a position of judicial coordinators is not supported by the judicial community, the creation of judicial registers of mediators united in the federal register of judicial mediators will allow judges to direct the parties to more specific and systematized information sources and, accordingly, will simplify the procedure for sending parties to mediation.

In addition, you can also provide for a certain amount of government fees for including data on the mediator in the register of forensic mediators. The funds received in this way can be used to pay for the work of judicial coordinators. The inclusion of data on the mediator in the register of a certain court should occur only if the mediator exercises his practice at the location of the court.

It is necessary to clarify the rules concerning the timing of independent mediation. As is known, in case of extrajudicial mediation, an agreement on mediation concluded by the parties long before the appearance of disputable legal relations has wide application. However, in view of the requirements of §§ 1, 2, Art. 23 of the Law with mediation outside the civil process, the conclusion of a mediation agreement before the dispute arises becomes simply meaningless.

Conclusion. It is necessary to clarify the provisions of the Law regarding the timing of mediation. For extrajudicial and judicial mediation in the sphere of civil, labor, family and other legal relations, par. 1, 2, Art. 23 of the current Law, as a general rule, a period of 30 calendar days from the date of concluding a mediation agreement is established (in cases of necessity, by mutual decision of the parties or the court, the period for mediation may be extended to 30, but not more than 60 calendar days in aggregate). Mediation during criminal proceedings must be completed within the terms of pre-trial and judicial proceedings established by the criminal procedure law.

As is known, with mediation conducted by arbitration courts, as well as extrajudicial mediation in general, an agreement on conducting mediation, concluded by the parties long before the appearance of disputable legal relations, has wide application. However, in view of the requirements of §§ 1, 2, Art. 23 of the Law with mediation outside the civil process, the conclusion of a mediation agreement before the dispute arises becomes simply meaningless. In this regard, it is necessary to legislatively allow for the out-of-court mediation the possibility of concluding a mediation agreement before the emergence of disputable legal relations.

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НОВЫЕ ТЕНДЕНЦИИ МЕДИЦИНСКОЙ МЕДИАЦИИ В ОБУЧЕНИИ И НА ПРАКТИКЕ

Аннотация. По мнению авторов решение возникающих конфликтов в области медицины, можно решить при помощи медиаторов. Медиация применяется для разрешения проблем и разногласий в сфере трудовых отношений, профессиональных споров, проблем в строительной отрасли, сфере образования и здравоохранения, конфликтов в бытовой сфере. Государственные и частные организации и компании берут на вооружение медиацию для урегулирования внутренних и внешних конфликтов в своей повседневной деятельности. Судебные инстанции и юридические консультации рассматривают медиацию, как возможность разрешения противоречий возникающие в результате лечения. Следовательно, профессионалам в различных областях все чаще приходится выступать в роли инициаторов медиации на добровольных условиях.

Ключевые слова: медиация, медицина, конфликты, переговоры, процедура, спор, решение.

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ОҚЫТУ ЖӘНЕ ПРАКТИКАДАҒЫ МЕДИЦИНАЛЫҚ БАҚ-ТАРДЫҢ ЖАҢА БАҒЫТТАРЫ

Аннотация. Авторлардың пікірінше, медицина саласындағы пайда болған қақтығыстарды шешу медиаторлардың көмегімен шешілуі мүмкін. Медиация еңбек қатынастары, кәсіптік даулар, құрылыс индустриясының проблемалары, білім беру және денсаулық сақтау салаларындағы проблемалар мен келіспеушіліктерді, отандық саладағы қақтығыстарды шешу үшін қолданылады. Мемлекеттік және жекеменшік ұйымдар мен компаниялар күнделікті қызметінде ішкі және сыртқы қақтығыстарды шешу үшін медиацияны қабылдайды. Құқық және құқықтық кеңес соттары медиацияны емдеуден туындайтын қарама-қайшылықтарды шешуге мүмкіндік ретінде қарастырады. Демек, түрлі салалардағы мамандар ерікті түрде медиацияның бастамашысы ретінде әрекет етуі керек.

Түйін сөздер: медиация, медицина, қақтығыстар, келіссөздер, рәсім, дау, шешім.

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