

# Innovation in conflict management

## *Inovação na gestão de conflitos*

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**P**rofessional interest management has always been factor of conflict; however, nowadays, it seems that the number of disputes within Ophthalmology has increased. There is conflict with manufacturers, health plans, government, non-medical professionals and even among ophthalmologists. One of the possible reasons for such an increase in conflict is likely linked to health companies, professional associations and interest groups that are increasingly seeking to establish their positions in the market by delimiting spaces and verticalizing activity fields, and it has been increasing tension areas among them.

Fact is, doctors are not trained to solve conflicts and, oftentimes, lack the skills to do so. Doctors are used to asking what e patients' complaints are, to inform diagnosis and to unilaterally explain treatments without negotiating conducts with patients. Ophthalmologists in professional associations use to be scholars with teaching, researching and assistancing skills, they do nothave any training or technical preparation to solve conflicts and to better deal with conflict situations. Our leaders were not raised to their positions because they are necessarily good conciliators; we still know few persuasion options rather than boycotting in prescriptions and scientific events. When these maneuvers do not apply to conflict situations, it means that matters, overall, referred to legal instances.

Therefore, when Ophthalmology professional associations cannot reinforce their will, they usually refer the legal instance conflicts. Overall, lawyers know how to negotiate and are more prepared than doctors to solve demands, but the most sought solutions remain in the hands of the courts. Judicialization is inevitable in some conflict situations; however, such feature does not have to be a systematic answer, as it ends up happening in most cases involving Ophthalmology. It is necessary finding more efficient intermediating solutions.

Certainly, concern with extra-judicially solving conflicts is not an issue exclusive to the medical field, since one can observed the current trend of solving conflicts through dialogue, which leads to faster and more effective results at lower costs. The Justice System recommends the extra-judicial solving of conflicts, the so-called Mediation Process, which accounts on body of professionals trained for such a task.

Based on the Mediation Process, both parties build together a way to solve their conflicts by taking into account the need of preserving their relationship. In other words, parties fight but do not break their relationship. The chamber of mediation works along with a free and impartial third party that is not affected by "passions" involved in the conflict; therefore, it makes communication between the disputing parties easier. The mediator does not simply suggest a "halfway" solution between demands of both parties, the strategy applied to mediation is more complex than just "you give in a little and I give in a little". At the beginning of the mediation process, Each party presents and defends its position at the beginning of the mediation process, whereas the mediator tries to find the real interest behind each position based on the methodology it was trained for, on what motivated each party to defend its position. The greatest talent of mediators lies on identifying the reasons causing the conflict - which do not need to be necessarily antagonistic - to find out the real interest of each party and to suggest solutions capable of meeting the interests of all by showing each part how both could gain in reestablishing a good relationship outside the justice system. <sup>(1-5)</sup>

Two current conflicts within the Ophthalmology field will be used as examples of approaches subject to mediation:

- 1- The unilateral decision of some health plans to "package services";
- 2- The movement performed by health plans to purchase medications for intravitreal injections from the industry and send them to application by ophthalmologist.

Both issues derived from technological development and from the aging population, which increased high added value in treatments such as cataract surgery, vitrectomy and intravitreal injections. These procedures make Ophthalmology expensive for payment sources. In times when health companies face barriers to raise revenues and their executives are pressed to improve profit margins, solution oftentimes ends up in reducing costs with payments to doctors who provide the service, among others.

The first issue depicts the conflict between ophthalmologists and health plans; it has been in court for more than a year, but yet without ultimate conclusion. The second conflict regards ophthalmologists, manufacturers and health plans; it has been under negotiation between leaders of professional associations and other involved parts. Approach by a mediation chamber would help easing the dialogue between the involved parts by seeking to reestablish relationships. Together they can find a satisfactory solution for all by building a new relationship and eliminating the risk of unfavorable results sentenced by a judge, since it can be subject to reform by higher courts. One must also take into account the time a claim can last transiting among courts, as well as the likely future issues and the high financial costs imposed by it, and the uncertainty faced by the involved parts as long as litigation lasts.

As for the first example, the mediator will try to find the reason driving the health plan to decide for 1 – the need of reducing doctor's payments or 2 – the attempt to limit the abusive number of complementary exams. Doctors do not want to have their payments reduced, but conflict solution does not likely need to involve payments, but an agreement on the request for complementary

exams, because, assumingly, these are not antagonistic interests. The same procedure can be applied to the second example, namely: trying to find the real interest of each party and reach a satisfying solution to their main needs.

It is important highlighting that the mediation process aims at changing the conflict not just to solve it, but to avoid future issues. The mediation process occurs under confidentiality clause and involved parts cannot use negotiatisn at mediation sessions as evidence in future lawsuits or for other purposes. Process costs are divided between parts when the claim is over.

Therefore, Ophthalmology can benefit from mediation processes, as observed in other professional associations, and use them as complementary acctions to legal advisement. Mediation is an additional tool to be applied to conflict management in order to save money and time. Professional association leaders could approach medication chambers to explain their interests and values in order to prepare them to help us resolving conflicts whenever necessary.

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