

Volume 10, Issue 4 / 2008 - Ethical Management

The Mediation on the Belgian Hospital Scene

Authors:

Piet Vanormelingen,

Mediator of the Cliniques universitaires St-Luc, Brussels,

AMIS President Emmanuel Legrand,

Mediator of the CHC and the CNRF, Liège, AMIS Vice-President

Email: piet.vanormelingen@clin.ucl.ac.be

A Contribution to the Quality of Care

The Belgian law concerning patients' rights gave individuals the right to submit a complaint to the relevant mediator. The Royal Decree of 8 July 2003 set out the terms for carrying out the function and in particular its obligation to draw up a

report containing various elements such as the number of complaints, their subject and, when applicable, any recommendations that were issued.

In light of this, several distinct tasks have been attributed to the function, among which, in addition to mediating complaints, drafting recommendations to avoid shortcomings likely to give rise to complaints. Consequently, we can clearly see the link between the function of complaint mediation and the role that the mediator is able to play in the context of the transformations affecting the hospital sector.

Appealing to the Mediator

In general, the number of complaints has not considerably increased over the years, contrary to the fears often expressed by health professionals. Quite the opposite, actually, since the complaints index went from 0.17% in 2004 to 0.11% in 2007 .

A number of mediators who had come together in the context of their professional association have been comparing their detailed figures since 2001 based on a table for recording identical complaints. In 2007, 49 hospitals in Belgium participated in this benchmarking. This comparative analysis represents 11,004 complaints, of which 7,350 concerned patients' rights; 3,654 cases of the benchmark involved a problem resulting from the relationship between the patient and the institution (organisational, administrative, technical, etc.)

The Mediator's Tasks

Only the obligation to provide access to the mediator is legally defined. Although it is in the process of being standardised, the complaint management process is still individually assessed by hospitals which are free to address it through their own internal rules. To date, while some mediators are identified as the complainant's only contact, others only act in a second phase, thereby first resorting to communication between the patient and the professional in question. The mediator will then only play a role if patients are not satisfied with their first approach or no longer wish to have contact with this health professional.

Note that the law only makes provision for individuals to appeal to the mediator for complaints concerning the legal relationship between the patient and professional practitioner (right to quality care, information, free consent, etc.). However, in practice, a large majority of mediators are also called upon by patients for problems arising from the relationship between the patient and the hospital (organisational and administrative issues, etc.).

Issues Brought Up

The vast majority of complaints concern the right to quality care (56% of cases). Complaints of this kind concern issues involving technical acts (expertise) about as often as behaviour (interpersonal skills). This observation was also included in the 2005 annual report of the "patients' rights" federal mediation service, which backs up the recommendation of providing professional practitioners with communication training .

© For personal and private use only. Reproduction must be permitted by the copyright holder. Email to copyright@mindbyte.eu.

A second issue that is regularly cited by patients is the right to access medical or administrative information. This weakness may result in patients who are not informed of potential complications of a type of medical treatment and who invoke professional negligence or fault.

The lack of financial and/or administrative information regarding the costs of care to be borne by the patient is also often cited by patients (32% of cases). Nevertheless, the lack of information that is so often criticised also brings up the issue of the patient's responsibility in the matter: did the patient even consider the issue before the problem arose? Did he try to find out more? Did he want to hear what the health professional told him? It is certainly a matter of encouraging one-on-one dialogue between the patient and the professional as much as making health professionals aware of their duty to inform patients.

The main motivation behind complainants' will to resort to a mediator is to have a place where they will be heard out, where they are guaranteed that their case will be dealt with and where they can be certain that they will be able to send a message to the institution so that other patients will not experience the same inconvenience (41% of cases).

Financial considerations rank only second as a reason for patients to contact the mediator (40% of complainants) and they will ask for the bill for care to be corrected or voided; only 10% of patients demand compensation for their complaint. Patients rarely inform mediators of their satisfaction with regard to the outcome of the mediation process.

This aspect was not analysed in 2007, but in 2006 the fact emerged that the outcome of the mediation was only known in 62% of cases. Among these, in 51% of cases the patient was satisfied with the mediation process, even though in 10% of these cases the outcome obtained did not meet their expectations. In 46% of cases, patients clearly demonstrated their lack of satisfaction both with regard to the mediation process and the outcome obtained. In the event that mediation fails, the mediator is legally required to inform the patient of possible alternatives to settle the complaint.

We do not have data regarding the number of complainants who, after attempting mediation, decide to settle their conflict by other means (mutual insurance company legal department, medical association, legal proceedings, etc.).

The Mediator's Challenges

Most mediators in the hospital sector are employees of the hospitals for which they carry out this role. The "patients' rights" federal mediator indicated in her 2005 annual report that patients sometimes question the neutrality or impartiality of mediators because mediators are paid by the institution for which they are supposed to mediate. This issue of the independence of mediators was also stated in the 2006 annual report , noting however some interesting

progress in this domain, such as the Royal Decree of 19 March 2007 which sets out incompatibilities between the function of mediator and other types of functions carried out within the same institution.

Naturally, the inception of this function has altered the traditional procedure of complaint management: the addition of a new level of power leads to legitimate questioning and reactions from the teams already in place. While no studies have been carried out on the professional integration of mediators, our numerous encounters have enabled us to make two highly relevant observations.

The first combines institutional efficiency, the role in supporting hospital transformations and the place given to them in the institution. Mediators must succeed in combining strict neutrality in managing patients' complaints on the one hand, and productive enthusiasm in making recommendations on the other: how can this be accomplished without a clearly defined position in the institution?

The second observation concerns the perception of mediators by their peers, a relationship built around complaint management: is it perceived as causing guilt or, on the other hand, totally lax? Is it constructive, consistent with improving the quality of care, or simply authoritarian and punitive?

Here we must reiterate that the mediator's role is not to judge the grounds of a complaint but rather to attempt to re-establish communication between the complainant and the professional practitioner.

This connection to the institution is more of a guarantee for success thanks to the fast and efficient contacts that the mediator will be able to obtain internally. The challenge for mediators is thus to succeed in gaining the trust of the parties

present through attitudes, behaviour or a writing style that is suitable and impartial.

Lastly, issuing annual recommendations brings up the issue of their legitimacy. How does one justify recommendations based on such a limited

number of complaints? We believe that through recommendations aiming mainly to modify the hospital scene, mediators must be able to apply the uniqueness of the complaint to the general points observed, thereby bringing about a level of reflection in relation to the standards in force with regard to interactions between the hospital and its patients.

Mediator Training

In order to provide the various mediators with the basic tools to succeed in this effective communication, thanks to the support of the King Baudouin Foundation, since 2007 the AMIS (Belgian Association of Healthcare Mediators) has offered training aimed at all hospital mediators centred on four modules: management of complaints, management of emotions, management of aggressiveness and the art of mediation.

This training will soon extend to relevant legal and organisational concepts. The decision to offer this training was also motivated by the observation that hospital mediators have very different backgrounds (social sciences, psychology, nursing, law, communications, etc.).

Conclusion

In Belgium, the mediation function, which is still relatively new, has become a prerequisite for hospital licensing. It is the result of transformations in current society that are trying to re-establish the legitimacy of citizens' voices with regard to institutions.

Hospital mediators are trying to clarify the perception of their role, which is a link between citizens, health professionals and the relevant institutions. In addition, mediation is part of the process for managing the quality and safety of healthcare institutions. Lastly, hospital mediation must contribute to the assessment and improvement of complaint management in individual institutions.

Published on : Fri, 22 Aug 2008