

Mediation in Turkish Health Law for Healthcare Disputes

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Abstract : In order to prevent overburdened courts, rising costs of litigation, and lengthy trial resolutions, the Law on Mediation for Civil Disputes was enacted, which was aimed at defining the procedure and guiding principles for dispute resolutions under Civil Law, in 2012. This “Mediation Code” also applies for civil healthcare disputes in Turkey. Aside from mediation, reconciliation, governed by Articles 253-255 of Criminal Procedure Law, has emerged as an alternative way to resolve criminal medical disputes, but the difference between mediation and conciliation is mostly procedural. This article deals with mediation in Turkish health law and aspect of medical malpractice mediation in Turkey. In addition, this study examines the issue of mediation in health law from both a legal and normative point of view, including codes of mediation which regulate both the structural and professional practice of mediation providers. As a result, although there is not official record about success rate of medical malpractice litigations and malpractice mediation in Turkey, it is widely accepted that the success rate for medical malpractice cases is relatively low compared to other personal injury cases even if it is generally considered that medical malpractice case filings have gradually increased recently. According to the Justice Ministry’s Department of Mediation in Turkey, 719 civil disputes have referred to mediators since 2013 (when the first mediation law came into force) with a 98% success rate.

Keywords : malpractice mediation, medical disputes, reconciliation, health litigation, Turkish health law

Conference Title : ICHL 2016 : International Conference on Health Law

Conference Location : Seattle, United States

Conference Dates : August 08-09, 2016