



# Department of Health, Taipei City Government

## Notice for mediation in medical dispute

Dear our citizens,

In the course of medical practice, it is the legal problem recognized by judicial institutions whether hospitals or physicians/surgens should afford related legal responsibility. According to article 98 of Medical Care Act, Review committee for medical affairs of ministry of health and welfare only under the commissioned by the judiciary or procuratorial authority. Based on investigation or gained fact and data, exam opinion provided shall be the reference for designated institutions.

The department conducts the mediation in medical dispute in accordance with the article 99 of the Medical Care Act. Mediation provides an alternative (not involved the examine for medical malpractice) to both clients for communication, it does not affect the client's other legal rights. The department shall follow "Treatment procedure for medical dispute cases, Taipei City Government". The related issues are described below.

### 1. Scope of appeal and description of limitation.

- (1) "**Medical dispute**" refers to that patient believes adverse effect caused by medical practice is responsibility for medical staff or medical institutions. For example, family or patient doubt misdiagnosis given by doctors, inappropriate prescription, testing error, and that medication is not inconsistent with the prescription.
- (2) Medical dispute is related to medical institutions or medical staff in Taipei City Government, the client or stakeholders should apply mediation to the department.
- (3) The application will be rejected if the following item is involved.
- (4) Medical dispute does not occur in Taipei City.
- (5) Not client, stakeholders or his/her attorney apply for the mediation.



- A. The case with incomplete data, improper procedure or that the issue does not meet the requirement.
- B. Application for judgment in medical dispute and examine case for medical malpractice.
- C. The civil or criminal cases reached the conclusion of the debate or verdicts of these cases will be made in the first trial.
- D. The mediation or arbitration is established (Note 1).
- E. The time of the occurrence of medical dispute in medical institutions is over the time when legal requirement for retaining the medical record and report. (note 2)

## 2. Appeal means for medical dispute

- (1) If the pleader has any question for the process of medical practice, he/she can call special phone (02-27287080) for counseling, mailing (faxing) the petition, or e-mailing to the Department of Health, Taipei City Government to file the appeal.
- (2) The content of petition should include: 1. Name of subject or medical institutions for medical dispute; 2. Summary of visiting doctors, what they doubt; 3. Contact ways for pleader: including the name of the pleader and patient (what their relationship is), phone number and address.
- (3) After understanding the purpose of appealing, the department will handle in accordance with "Treatment Procedure for medical dispute cases". The department issues formal letter to the medical institutions and ask them to reply issues pleader appeal, and then reply to the pleader.
- (4) After received the explanation from the medical institutions and resolutions, the pleader accept their words or treatment. The person-in-charge in the department will confirm with pleader or medical institutions issue the letter to notify the department about the results. If both parties signed the statement of settlement, it shall be sent to the department to close the case.



### 3. Procedure and Means to arrange the mediation:

- (1) If the pleader disagree the explanation or solution from medical institutions, the client, legal representative and designated representative fill out the “Application for mediation in medical dispute” and submit to the department. After receiving the application, the department will arrange the date, attended member, Medical Affairs Association and venue to hold the mediation meeting.
- (2) The member of mediation in medical dispute of the department chairs the mediation meeting in medical dispute. Representative of the Medical Affairs Association will be invited to attend the meeting, and provide the expert opinion and counseling.
- (3) Depending on the content of the case, the department will evaluate whether it is necessary to invite the facilitator to intervene and provide the care and counseling after the mediation in medical dispute.
- (4) Regulation of the mediation process
  - A. Except for the permission granted by the mediation member and both clients, they should keep silence for the process and results of mediation. Without the permission from both parties, the process and results might not be public. Without the permission from the clients, it is ban to do the sound recording, video recording or photo taking.
  - B. The scheduled meeting is one hour. In the mediation process, if one side appears the violence, threatening, offering incentive or other abnormal behavior, the department of health can shift the case to the judicial authorities for the follow-up treatment in accordance with the law.
  - C. If both parties have not reached the consensus in the first mediation meeting in medical dispute, one of parties can apply for second mediation meeting in medical dispute. Mediation in medical dispute



provided by the department is one communication ways, the department does not provide the examination for medical malpractice. Even so, the pleader can follow the legal means to file the litigation to judicial authorities or resolve this issue through other ways.

- D. Both parties explain and communicate with each other in the mediation process. Regret, apology or similar statement made by medical staff or his/her representative in the process could not be the evidence for relevant litigation or basis of judgment.
- E. The conclusion record of mediation meeting is made on site. The attendee ensure there is no error in the record and then signed for confirmation. When both parties cannot reach the agreement, there is no mediation opinion in the record. The formal letter is issued to both parties for mediation is “established” or “not established” .

Note 1: Arbitration refers to the fact the client in the dispute reach the agreement on the willing basis, submitting the dispute to the third party (not judicial authorities) for review. The third party can make decision which restrict both parties. Arbitration is one kind of system and means to resolve the dispute. Arbitration in nature is combined of contract, autonomy, and non-governmental and quasi-judicial way to resolve the dispute.

Note 2: Article 70 of the medical care law states that Medical care institutions shall designate appropriate location and appoint personnel for the storage of medical records, which shall be retained for at least seven years

Note 2-1: Article 25 of Nursing Personnel Act stated that nursing personnel shall produce records during their practices. The record should kept by the institutions for 10 years.

Note 2-2 Article 25 of Physical Therapists Act indicated that A physical therapy clinic shall appoint persons to safe-keep records of physical therapy, diagnosis and written directions issued by physicians in an appropriate place for at least ten (10) years.



Note 2-3: According to article 26 of Medical Technologists Act, Medical examination clinics shall keep the records of examination results, examination slips issued by physicians, duplicate copies of examination reports and medical examination quality control records for at least three years.

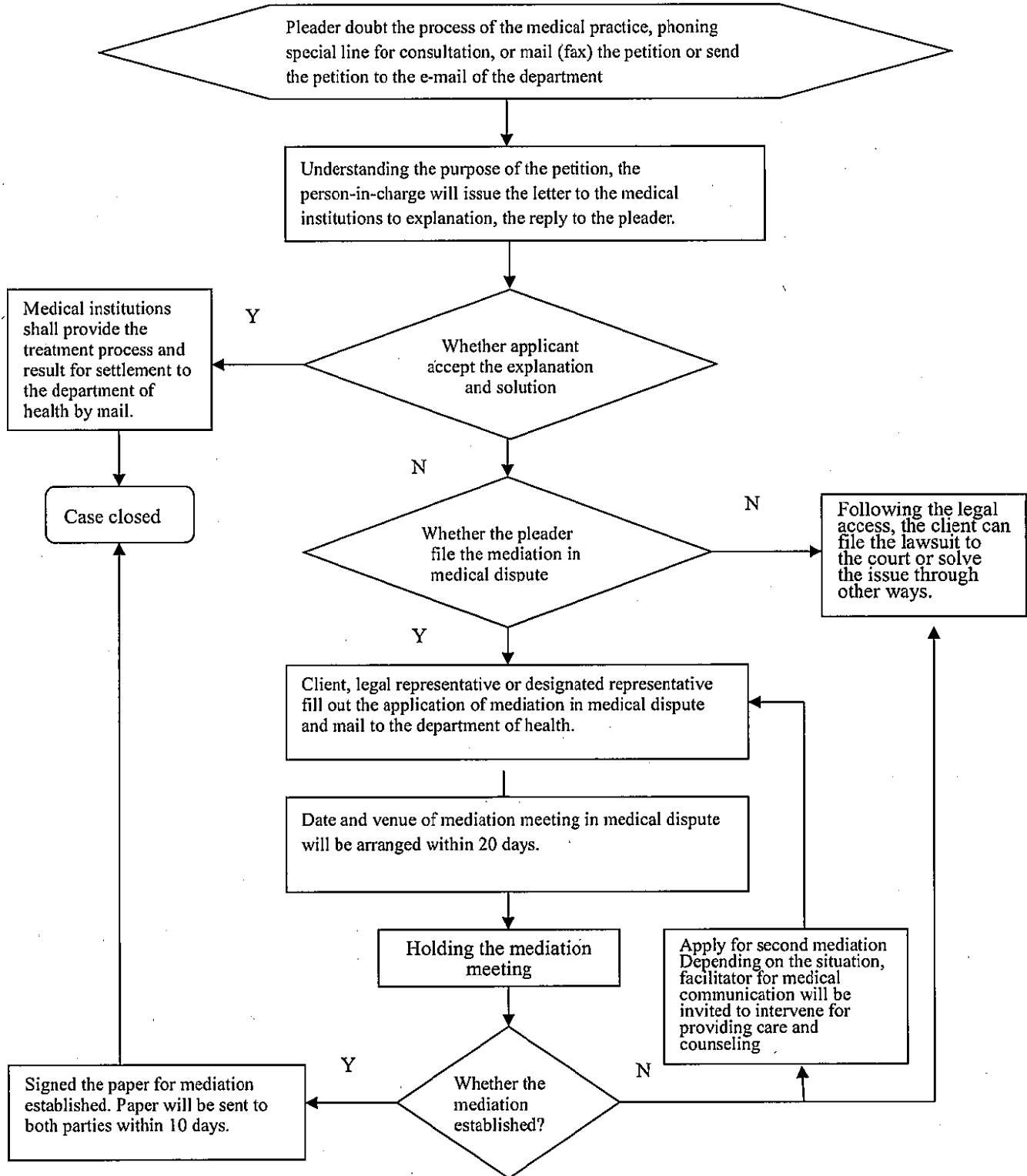
Note 2-4: According to article 25 of Occupational Therapist Act, occupational therapeutic clinic shall appoint persons to safe-keep the records of occupational therapy, the diagnosis prescribed, consultation or medical order issued by physicians in an appropriate place for at least 3 years.



# Department of Health, Taipei City Government Treatment flowchart for mediation in medical dispute

Organizer: Quality control unit of Medical Care Affairs Division

■ Counseling phone no: (02)2728-7080 (02)2720-8779 (please call for confirmation after faxing.)





**Department of Health, Taipei City Government**  
**Application for meditation in medical dispute (Patient Use)**

Name of applicant				Relationship with patient	<input type="checkbox"/> I <input type="checkbox"/> successors <input type="checkbox"/> others _____
gender		Birthday yy/mm/dd		Identification no.	
legal representative Designated representative				Identification no.	
contact phone no.				Mailing address	
Name of patient				Identification no.	
gender		Birthday yy/mm/dd		Applicant is not the patient, it's request condition	<input type="checkbox"/> Part of successors apply <input type="checkbox"/> All successors apply <input type="checkbox"/> Other rights in accordance with _____
client (name of medical institution)				Unified Business No.	
Address of Office					
Name of medical staff in medical dispute					
Period when the medical dispute occurs					
Main points of medical dispute (including reasons)					
Concrete appeal					
Attached data provided by applicant	<input type="checkbox"/> Medical certificate <input type="checkbox"/> Copy of medical record <input type="checkbox"/> Medical Expense Details <input type="checkbox"/> X ray, related testing data <input type="checkbox"/> Detailed medicine taken <input type="checkbox"/> Power of attorney <input type="checkbox"/> Identification certificate <input type="checkbox"/> others 其他 _____				



Department of Health, Taipei City Government  
Application for mediation in medical dispute (supplementary description)

Main points of  
medical  
disputes  
(including  
reasons)

Applicants

sign & seal

Applied date:





**Department of Health, Taipei City  
Government Mediation in medical dispute  
Power of Attorney (Patient Use)**

Client \_\_\_\_\_ fully designate \_\_\_\_\_  
to communicate with \_\_\_\_\_ medical staff of  
\_\_\_\_\_ medical institutions to attend  
the mediation of medical dispute and authorize  
him/her to handle the issues in the meeting,  
including abandon, recognize the promise,  
withdraw the application and other special  
designated rights. The power of attorney is  
evidence.

To Department of Health, Taipei City Government

Client sign & seal :

Identification no. :

Trustee sign & seal :

Identification no. :

Applied Date: YY                      MM                      DD