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# Healthcare Disputes and Mediation

November 2017



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# Introduction

# The Mediation Unit and the Healthcare Mediation Scheme

- Launched in 2014 to promote the use of mediation to resolve healthcare disputes amicably
- Mediation
  - Responded to more than 600 cases through the free public helpline and email.
  - Mediated 34 cases with a settlement rate of more than 80%.
- Training
  - Developed and conducted 14 conflict de-escalation workshops for 282 healthcare staff.
- Talks
  - Conducted 30 introductory talks on mediation for more than 1,500 staff at restructured hospitals and other MOHH subsidiaries.

# Shift towards mediation

- **The Courts' endorsement of mediation as a method of dispute resolution**
  - **Chief Justice Opening of Legal Year 2016 Speech**

*“Medical care is of direct concern to all Singaporeans and we must avoid a situation where the practice of medicine comes to be adversely affected by the medical practitioner’s consciousness of the risks of malpractice... To strike the right balance and ensure that medical practice is not distorted by the fear of litigation, some re-imagination of our medical litigation paradigm is timely. We are evaluating the adoption of... overlapping measures: **First, promoting ADR (Alternative Dispute Resolution), in particular mediation, as a primary step in resolving disputes relating to medical malpractice.**”*
  - New High Court Protocol for Medical Negligence Cases
- **MOH QS Team**
  - Encourages complainants to consider mediation if unable to resolve dispute with HCl/doesn't want to complain to SMC
- **Medical Malpractice Insurance**
  - Patients who seek financial compensation from hospitals and doctors are encouraged to use mediation to resolve their disputes

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# What is mediation?

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# Spectrum of Dispute Resolution Processes:

Negotiation

Mediation

Neutral

Evaluation

Arbitration

Litigation

Maximum Control by Party  
over outcome

Maximum Party Participation

Minimum Control by Party  
over outcome

Minimum Party Participation

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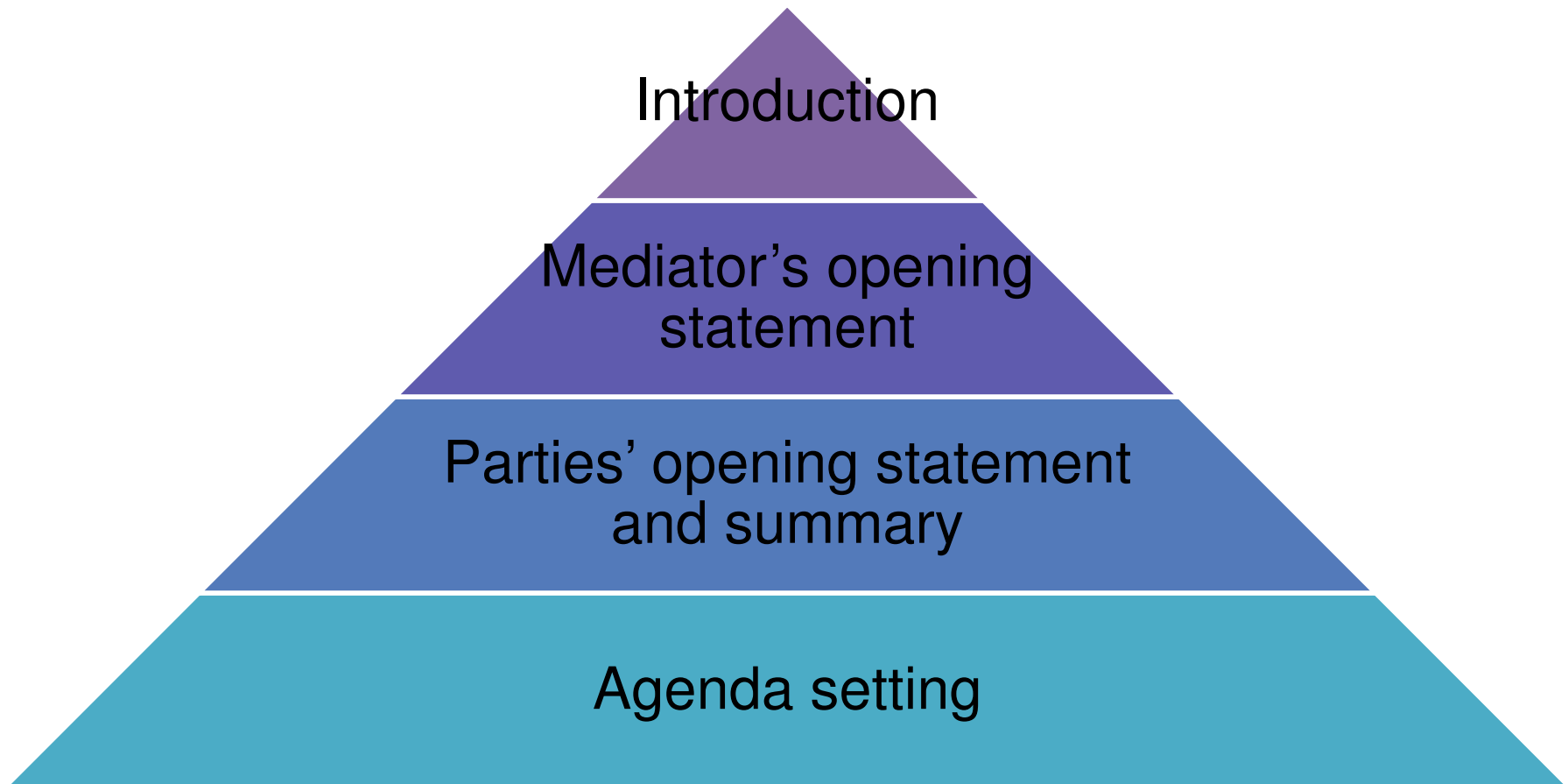
# What is Mediation?

- Amicable dispute resolution
- Voluntary process
- Neutral, independent third party (the mediator)
- Works with parties to discuss their dispute
- Mutually agreeable solution
  - Recorded in writing
- Confidential & without prejudice
  - Mediation Act

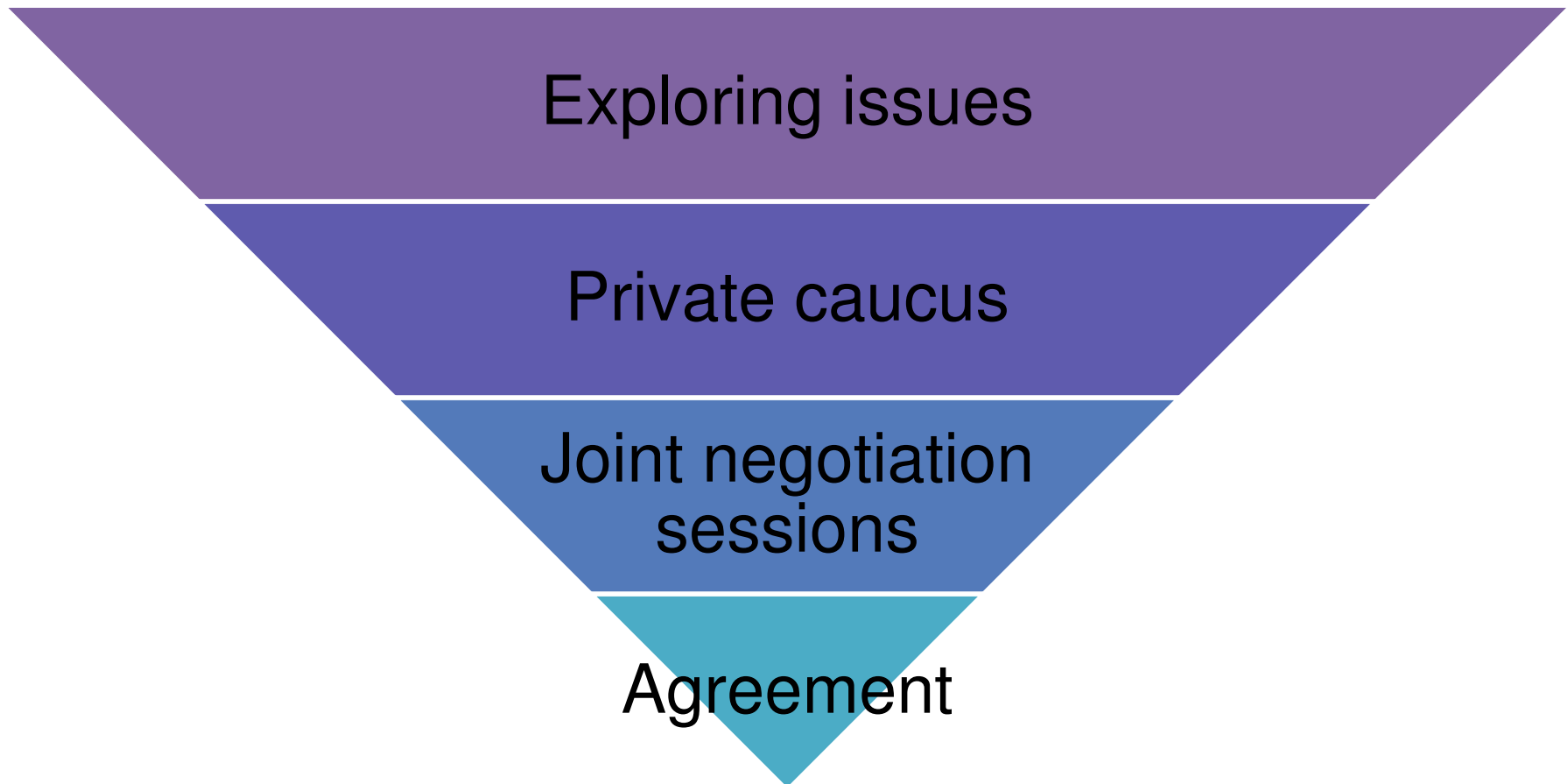




# Problem Defining Stages of Mediation



# Problem Solving Stages of Mediation



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# Healthcare disputes and mediation

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# Other jurisdictions

- UK NHS 1999 Mediation Pilot Programme
  - 11 of 12 cases settled in mediation
- Rush Mediation Program, Chicago
  - 90% of mediated cases settle and a few of the other 10% settle a few months afterwards
- Drexel University (Pennsylvania)
  - Launched in 2004
  - Voluntary, co-mediation model
  - Settlement rate of 85%
- University of Pittsburgh Medical Centre
  - Launch in 2004
  - Single mediator model
  - Settlement rate of 88%
  - estimated \$1 million savings in defense costs

# Why healthcare disputes are suited for mediation

- Communication breakdown
  - Mediation bridges communication gaps between parties
- Mediation natural extension of doctor-patient relationship
  - “Partnership” between doctor and patient in management of care
  - Mediation is collaborative problem solving
- Mediation can help to meet various needs of parties
  - Beyond monetary payout
  - Creative, non-monetary solution to meet underlying needs
  - Needs of parties don’t conflict – they gel

# Why healthcare disputes are suited for mediation

What Medical Staff Want	What Patients Want
For patient to understand management or complex medical facts	To seek clear explanation
Opportunity to share experience and impact of incident with patient	Opportunity to share experience and vent emotions
Preserve doctor-patient relationship (vs. complainant vs defendant)	Preserve relationship with doctor and hospital
Improve patient safety	Assurance error won't happen again
To give an apology	To seek an apology
Goodwill payment or fair compensation	Fair compensation
Speedy resolution	Speedy resolution
Confidentiality	Confidentiality (in some cases)

## FAQs

- When should we consider mediation?
  - After two family conferences; or
  - After two exchanges of letters; and
  - There is no/very little progress
- Should I call the Unit or see a lawyer?
  - Mediation is NOT a substitute for legal advice
  - Instruct your lawyer early on that you want to mediation
- How do I refer a case to mediation without breaching confidentiality?
  - Sound patient out about openness to mediation
  - Ask for permission to share contact details with Unit/give patient Unit's contact details
  - Unit speaks to patient to obtain confidential information about case
  - Unit speaks to doctor to obtain their side of the story
  - Unit assesses whether case is suitable for mediation

## FAQs

- Model paragraph to suggest mediation to patients:

*“[We hope our reply satisfactorily addresses your concerns. However, if you remain dissatisfied,] [the hospital] is open to resolving the matter through mediation. Mediation is a confidential, amicable process whereby a neutral and independent mediator helps parties to engage in a constructive discussion to resolve their differences. If you are amenable to mediation, one option is to use the subsidised Healthcare Mediation Scheme (“**HMS**”), administered by the MOH Holdings’ Healthcare Mediation Unit. The HMS is a specialist mediation scheme that promotes the use of mediation to resolve disputes between patients and healthcare providers. For more information, you can call the Unit at 66223755, or email them at [mediate@mohh.com.sg](mailto:mediate@mohh.com.sg). You may also wish to refer to the HMS website at <http://www.mohh.com.sg/hms/index.html> for further information.”*

\*Words in square brackets should be changed to suit the circumstances.



# Mediation and Training Services

# Healthcare Mediation Scheme (HMS)

- Specialist panel in collaboration with the Singapore Mediation Centre
- Co-mediation
- Typical issues that have been referred to the HMS and successfully settled include patient care and management, malpractice allegations, service quality, and medical fees.

# Mediators

- Appointed by the Singapore Mediation Centre.
- Trained and assessed to have requisite skills.



*Dr. Joseph H. H. Sheares  
Cardiothoracic Surgeon  
Mount Elizabeth Medical Centre*



*Dr. Ronald Paul Ng  
Specialist Hematologist  
Haem-Onc Clinic Pte Ltd*



*Shanti Abraham  
Founder  
Shanti Abraham & Associates*



*Lim Tat  
Managing Partner  
Aequitas Law LLP*

# Fee Structure Summary

<b>Public HCI</b>	<b>Mediation Fees (per party)</b>
Admin Fee	\$150
Mediation Fee	\$300 per hour
Free hours	2
<b>Private HCI</b>	<b>Mediation Fees (per party)</b>
Admin Fee	\$250
Mediation Fee	\$550 per hour
Free hours	1

# Application Process

1. Applicant submits Application Form
2. Unit assesses application
3. Unit contacts Respondent
4. Respondent informs Unit about decision to mediate
5. Unit arranges mediation

OR

Unit informs Applicant that the invitation to mediate was declined by Respondent

<http://www.mohh.com.sg/hms/index.html>



# Conflict De-escalation Training

- **Conflict De-escalation for Healthcare Leaders\***
  - Understand mediation, when to refer case to mediation, effectively represent institution at mediation
  - 2 days, \$600 (without GST)
  - Sept 2018
  - Senior consultants and above
- **Conflict De-escalation for Healthcare Professionals\***
  - Understand conflict, manage self, how to de-escalate conflict
  - 2 days, \$480 (without GST)
  - Target audience: doctors, nurses, front line managers, other middle managers
  - Dates:
    - 23 & 24 April 2018
    - 27 & 28 August 2018
    - 3 & 4 December 2018

*\*Subject to availability and completed attendance, doctors and dentists employed by MOHH or any of the public healthcare institutions under the MOHH group will be funded by Health and Medical Practice Insurance Pte Ltd.*

# Contact Us

## Hotline:

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- [mediate@mohh.com.sg](mailto:mediate@mohh.com.sg)

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# Thank You



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