Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

Articles

Studia Iuridica Lublinensia vol. XXVII, 3, 2018
DOI: 10.17951/sil.2018.27.3.175-185

Katarzyna Joanna Luty
Kozminski University
ORCiD: 0000-0002-3361-5584
kas.luty@gmail.com

Principles of Mediation Based on the Law on Chambers of Physicians

Zasady mediacji w oparciu o ustawę o izbach lekarskich

SUMMARY

The Act on chambers of physicians provides for the possibility of referring parties to mediation proceedings, the purpose of which is, among others, to alleviate the conflict between the aggrieved patient and the accused doctor. Depending on the stage of a given case, mediation is directed by the spokesperson for professional liability – in the course of an investigation, or medical court – during the proceedings before a medical court. A mediator may only be a doctor appointed from a given chamber as a trustworthy person, which may raise doubts as to his impartiality and neutrality towards the case and parties to the proceedings.

Keywords: mediation; mediation rules; the chamber of physicians; professional responsibility of doctors

The law allows the possibility of mediation in proceedings regarding the professional responsibility of doctors. The Act of 2 December 2009 on chambers of physicians provides that the spokesperson for professional liability in the course of an investigation or medical court in the course of proceedings before a medical court may, on the initiative or with the consent of the parties, refer the case to mediation proceedings between the victim and the accused[1]. The role of the mediator is performed by a doctor elected by the Medical Council from the appropriate regional medical chamber. This raises the question of whether it does not directly

[1] Act of 2 December 2009 on chambers of physicians (Journal of Laws, 2017, Item 836).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

contradict the rules of mediation when the mediator is a doctor, and the proceedings take place between the accused doctor from the same chamber of physicians and the aggrieved patient? In order to answer such a question, it is necessary to compare the generally accepted principles of mediation with those that apply as part of proceedings based on the Act on chambers of physicians.

Medicine is developing dynamically, new method of diagnosing and treating patients appear, and at the same time the relations between the doctor and the patient are changed. Expectations towards doctors are constantly growing. The hope of patients and their families to be cured is growing; thanks to the developing information technology they have better access to information about diseases and treatments, but knowledge derived from such sources is repeatedly unverified and even incorrect, which may lead to unjustified claims. Not without significance in the context of the enforcement of patient rights is the fact that law firms specializing in damages in the field of medical malpractice have been popularized in recent years. They offer patients their services by promising compensation and ensuring that there is no need to get involved in the proceedings, which makes it easier to decide on a complaint against a given doctor.

All these variables lead to an increase in the number of complaints about physicians' actions under criminal law, civil law and professional liability. Mediation, although so underestimated, is an alternative to court proceedings, which in medical process is complicated, long-lasting, very costly and uncomfortable for the parties. Emotions related to the matters involved in the dispute are very strong on both sides. The trial process gives no opportunity to heal and calm emotions because its resolution depends on the will of the court ruling in the case, it is somewhat imposed on the parties. In fact, to improve the relationship between the parties, it would be advisable to reach a compromise that would be acceptable to both sides. In my opinion, the mutual explanation of positions in the presence of an impartial mediator allows to understand each other and to meet possible expectations. However, in the course of court proceedings, the parties are focused on pushing through their arguments and negating the opponent's theses, in order to obtain a favourable solution for them, and not on listening to and understanding the opponent and making mutual concessions.

The opinion of the head of the Greater Poland Chamber of Physicians, K. Kordel, should be shared, who draws attention to the fact that there are mistakes everywhere where people work. The reason for this may be a smaller number of doctors during one shift, which is associated with overlook and fatigue, as a result of which it is easier to make a mistake[2].

[2] See Informacja dla radia Poznań, http://radiopoznan.fm/informacje/pozostale/mediacje-zamiast-procesow [access: 11.09.2017].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

At this point, it is worth paying attention to the problem of proper communication between the doctor and the patient. D.H. Newman, an American doctor, believes that the most important factor responsible for success or failure is the correct form of contact between the doctor and the patient, not the infrastructure of the hospital unit. To improve the relationship between them, should be ensured their proper communication[3].

Communication gives the doctor and the patient the opportunity to look at the matter from a different perspective. The feeling of comfortable communication between the patient and the doctor should be a priority, which despite the appearances is possible to achieve even in the event of a conflict. The solution in this situation is mediation, providing a safe atmosphere of conversations and the ability to overcome stress. The mediator's task is to ensure the balance of the parties and to facilitate communication in order to enable the parties to reach a compromise. However, when the case is brought before the court and the case is not referred to mediation, the problem of the lack of proper communication is very visible, which is often compounded by excessive length of court proceedings. The duration of the process has a negative impact on the relationships of the parties who, due to the conflict, discourage each other, and moreover, the passage of time generates the uncertainty and frustration with the lack of resolution at both sides[4]. At the same time, it is impossible to say whether the lack of mediation in such cases is a deliberate choice of the parties to proceedings, or perhaps due to lack of information and ignorance in the field of mediation institutions. Often, the parties do not associate mediation with an alternative to the litigation method of dispute resolution, and even it is a concept completely unknown to the parties. This may be due to, among others, the lack of sufficient sources guaranteeing a high level of knowledge about mediation[5].

The problem of lack of communication (dialogue between the parties) is very visible in criminal proceedings, where the court decides about the guilt and punishment, and the proceedings focus on the perpetrator's act, while the victim's harm is treated secondarily[6].

As indicated by the Social Council for Alternative Methods of Solving Conflicts and Disputes at the Ministry of Justice:

---

[3] D.H. Newman, *Cień Hipokratesa. Tajemnice domu medycyny*, Kraków 2010, p. 8, quoted by: *Realizacja zasady informed consent w kontekście relacji lekarz – pacjent. Wyzwania i bariery rozwojowe w Polsce*, Warszawa 2012, www.rpo.gov.pl/pliki/13584264060.pdf [access: 11.09.2017].

[4] R. Husarz, *Mediacja jako polubowne rozwiązanie sporów medycznych*, [in:] *Wokół praktycznych i teoretycznych aspektów mediacji*, red. P. Malinowski, H. Duszka-Jakimko, A. Suchorska, Kraków 2015, p. 75.

[5] *Ibidem*, p. 76.

[6] I. Wrześniewska-Wal, *Mediacja lekarz – pacjent. Alternatywna forma rozwiązywania sporu*, „Fides et Ratio" 2016, nr 2(26), p. 140.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

Mediation means a voluntary and confidential process in which a professionally prepared, independent and impartial person, with the consent of the parties, helps them cope with the conflict. Mediation allows its participants to identify contentious issues, reduce communication barriers, develop proposals for solutions and, if it is the will of the parties, enter into mutually satisfactory agreement. The success of mediation as an effective method of resolving conflicts depends to a large extent on the professionalism of mediators and the high level of their professional ethics[7].

In my opinion, mediation can be crucial to improve communication between the parties, which results directly from its fundamental assumptions, which include: the voluntary impartial and neutral mediator, confidentiality of mediation and balance of parties. They can be supplemented also by the reliability and professionalism of the mediator, expressed in honest informing the parties about the course of mediation[8], or the fact that the parties agree on the mediator, who agrees with them on mediation rules, then followed in the course of the proceedings[9]. The above raises hopes for increasing the number of disputes ended through a mediation settlement and reducing the number of disciplinary complaints against doctors, which according to the data of the Supreme Advocate of Professional Liability of Doctors, Dr G, Wrona, on a national scale, approx. 3,500 are submitted every year, of which about 30% ends with the formulation of the application for punishment by the spokesperson[10].

INSTITUTION OF MEDIATION IN THE ACT ON CHAMBERS OF PHYSICIANS

In the justification of the government draft to the Act of 2 December 2009 on chambers of physicians[11], as an advantage of introducing mediation into proceedings regarding the professional responsibility of doctors, the legislator indicated the fact that the use of mediation procedure in many cases can replace an investigation or proceedings before a medical court and, at the same time, make it possible to settle the matter without a lengthy procedure, reducing the costs of proceedings[12].

---

[7] Standardy prowadzenia mediacji i postępowania mediatora uchwalone przez Społeczną Radę do spraw Alternatywnych Metod Rozwiązywania Konfliktów i Sporów przy Ministrze Sprawiedliwości w dniu 26 czerwca 2006 r., www.ms.gov.pl/Data/Files/_public/mediacje/adr1/adr_standardy_mediacji.rtf [access: 11.09.2018].

[8] M. Skrodzka, *Podstawowe zasady postępowania mediacyjnego*, http://docplayer.pl/10660482-Podstawowe-zasady-postepowania-mediacyjnego.html [access: 11.09.2018].

[9] *Czy tylko sąd rozstrzygnie nasz spór? Mediacja i sądownictwo polubowne. Informator o alternatywnych sposobach rozwiązywania sporów*, red. A. Rękas, Warszawa 2010, p. 15.

[10] See Informacja dla radia Poznań.

[11] Journal of Laws, 2018, Item 168, consolidated text of 19 January 2018.

[12] Uzasadnienie rządowego projektu ustawy o izbach lekarskich, druk sejmowy VI kadencji, nr 2151, http://ww2.senat.pl/k7/dok/sejm/044/2151.pdf [access: 24.09.2017].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

The injured and the accused are involved in the proceedings regarding the professional liability of the doctors. By the former we mean a natural person, a legal person or an organizational unit without legal personality, whose legal interest has been directly violated or threatened by a professional violation of the doctor. What is important in the event of the death of an aggrieved person who is a natural person, his right to access medical information, including the right to access medical information and medical records, can be performed by the spouse, ascendants, descendants, siblings, family members in the same line or degree, the person remaining in the adoption relationship and his/her spouse, as well as the person remaining in a shared life[13]. On the other hand, the person accused in accordance with the Act is a physician for whom during the explanatory proceedings the professional defence spokesman issued a decision on presenting charges or filed an application against him for punishment to the medical court[14].

As a mediator, in accordance with the above-mentioned Act, a trustworthy doctor is chosen by the Medical Council, who is a mediator in the medical office for a period of one term. The spokesman for professional liability, his deputy and a member of the medical court cannot be a mediator. The mediation procedure is conducted in the appropriate field of the chamber of physicians, with the note that in the case of premises for excluding the mediator (Articles 40–42 of the Act of 6 June 1997 – Code of Criminal Procedure – the same grounds as in the case of judges during the criminal proceedings) or if any of the parties request a change of the mediator, the proceedings may be conducted in a different chamber of physicians, indicated by the authority referring the case to the mediation proceedings.

After conducting the mediation proceedings, the mediator prepares a report on its course and results, which is attached to the case file. The provisions of the Act of 6 June 1997 – Code of Criminal Procedure regarding mediation proceedings shall apply accordingly to mediation proceedings[15].

ANALYSIS OF MEDIATION PRINCIPLES BASED ON THE ACT ON CHAMBERS OF PHYSICIANS

The impartiality of the mediator should be guaranteed by the impartiality of the parties' balance, protection of dignity and observance of their rights. It is indicated by the *sine qua non* condition for reaching a compromise, and therefore for a final settlement between the parties, ensuring that their mutual interests are adequately protected[16].

[13] Article 57 of the Act on chambers of physicians.
[14] Article 58 of the Act on chambers of physicians.
[15] Article 113 of the Act on chambers of physicians.
[16] E. Bieńkowska, *Mediacja w sprawach karnych. Stan prawny na 1 września 2011 r.*, Warszawa 2011.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

Considering the fundamental principles of the impartiality of the mediator and the balance of parties in mediation, it should be stated that the choice of a trustworthy doctor who is a mediator in the chamber of physicians may raise concerns whether they will be preserved in such a good condition. Although the spokesperson for professional liability, his deputies and members of the chamber of physicians under the Act cannot be mediators, but still such a function is exercised by a doctor elected by the competent regional chamber of physicians. T. Dukiet-Nagórska, wchich is adherent of introducing a mediator institution into the chambers of physicians, emphasizes that she does not like appointing doctors for this function and considers it as a misunderstanding. According to her effective mediation is possible only when it is conducted by a person specially prepared for it, familiar with the provisions of the Code of Criminal Procedure, and above all, completely impartial. Even with the utmost care on the part of the physician-mediator, his impartiality can be questioned, because there is a risk that he will show more understanding during mediation for the accused doctor than for the other party (patient or his family) and will be perceived as such by patients[17]. Doctors who are blamed can also look for understanding with a mediator who is a doctor.

In connection with this situation, we cannot talk about maintaining the balance of the parties, because the mediator is a doctor, just like the accused, and the aggrieved is a patient; even with the mediator's greatest efforts, the aggrieved party may feel a sense of alliance and solidarity of the accused with the mediator. We cannot underestimate the fact that broadly understood professional solidarity is not conducive to maintaining the impartiality and neutrality of the physician-mediator in the mediation proceedings, when on one side of the conflict there is an accused doctor, usually from the same chamber of physicians. This solidarity is being built at the stage of education, where the doctors, taking a medical pledge, vow, among others, to "protect the dignity of the medical condition and not to stain it with anything, and refer to fellow doctors with due kindness, not undermining trust in them, but acting impartially and with regard to the well-being of the patients"[18].

Professional solidarity obviously forces doctors to mutual loyalty, concern for a good name, their colleagues and the place where they are employed. What's more, older doctors with their authority have a huge influence on the decision-making of

[17] See T. Dukiet-Nagórska, [in:] J. Watoła, *Mediator będzie lekarzem, ale czy zrozumie pacjenta?*, http://katowice.wyborcza.pl/katowice/1,35063,7436036,Mediator_bedzie_lekarzem__ale_czy_zrozumie_pacjenta_.html?disableRedirects=true [access: 16.09.2017].

[18] "I receive the title of doctor with respect and gratitude for my Masters, and being fully aware of the duties associated with I promise […] to guard the dignity of the medical profession and not to stain it with anything, and to refer to colleague doctors with due kindness and with regard to the well-being of the patients" – Przyrzeczenie lekarskie, www.nil.org.pl/__data/assets/pdf_file/0003/4764/Kodeks-Etyki-Lekarskiej.pdf [access: 25.09.2017].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

younger colleagues, which can have a direct impact on the assessment of the doctor-patient relationship, as well as breaking the mediator's impartiality principle[19].

Analysing the principle of voluntary mediation, it should be pointed out that neither the spokesperson nor the medical court can refer the matter to mediation proceedings without the consent of the parties[20]. This rule also applies to a mediator who has the right to resign from mediation, if there are important reasons for doing so. An example of this may be personal reasons if he cannot maintain impartiality due to the subject matter of the dispute, or if at the time of referring the case to mediation, he conducts too many proceedings and will not be able to meet the deadline indicated in the decision to refer the matter to mediation[21].

In order to comply with the aforementioned principles and the principle of acceptability, it is necessary to ensure that the parties have a 'free choice' of a mediator. In connection with the entry into force on 1 January 2010 the Act on chambers of physicians, in each chamber a mediator-doctor was appointed. The number of mediators for a given chamber is on average 1–2 people, which indicates that the mediator cannot be chosen. In my opinion, this indirectly violates the principles of voluntariness and directly the principle of acceptability. The mediator is somewhat imposed by the given chamber and even taking into account the fact that it can be changed for reasons specified in the rules on the exclusion of a judge or at the request of a party, he is still selected from another chamber of physicians, where the choice is still limited. The possibility of changing the mediator indicated above should not be equated with the freedom of choice. The parties, after initiating mediation before the mediator imposed by the chamber, after complying with the statutory prerequisites, can only request the exclusion of a particular mediator. Freedom/voluntary selection of a mediator will be preserved only if the parties are entitled to choose a candidate for a mediator at the stage of his establishment and not only from the chamber of physicians, but also from outside, e.g. from the list of Permanent Mediators kept by the President of the District Court, or from the list of mediators in criminal cases, who must also be registered on the list kept by the court.

An important aspect for medical mediation is the principle of confidentiality. The guarantee of confidentiality of the subject of mediation and the positions of the parties allows the doctor to reduce the fear of loss or reputation, so that he can comment on the matter, the problem that arose more easily, has the opportunity to explain the situation that occurred to the patient, dispel the emerging doubts. He

[19] J. Hartman, *Bioetyka dla lekarzy*, Warszawa 2012, pp. 78–79.

[20] M. Kozik, *Postępowanie z zakresu dpowiedzialności zawodowej*, www.oil.org.pl/xml/nil/gazeta/numery/n2010/n201005/n20100519 [access: 11.09.2017].

[21] M. Rajca, E. Nowosielska, *Postępowanie mediacyjne w ramach odpowiedzialności zawodowej lekarzy*, „Biuletyn Informacyjny Opolskiej Izby lekarskiej" 2011, nr 175, www.izbalekarska.opole.pl/informacje-wyborcze/item/download/41_bfd98a725b3109205e898e0ed748b5c1 [access: 16.09.2018].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

can also find out what kind of suffering has the patient experienced, what is his look at it, show remorse and compassion.

Turning to the disadvantages of mediation on the basis of proceedings regarding the professional liability of doctors, as the most important and the widest, and at the same time constituting a limitation of the number of mediations, is the lack of direct translation of the conducted settlement into the outcome of the case. The construction of the regulations does not allow for the transposition of settlements into the outcome of the proceedings. There is no guarantee that the settlement concluded during the mediation will end the dispute. There is no possibility of discontinuing the proceedings after concluding a settlement during mediation about professional liability. Article 63 of the Act on chambers of physicians provides for a closed catalogue of situations in which the proceedings regarding the professional liability of doctors are not initiated and the proceedings are being discontinued. This catalogue does not mention the discontinuance of proceedings regarding the settlement[22].

The settlement between the parties also does not provide grounds for discontinuing the proceedings pending before the medical court, as provided in Article 82 of the aforementioned Act referring directly to the described Article 63 of the Act[23].

It is also unclear how the ordinary court would approach the settlement concluded before the mediator chosen by the chamber of physicians to perform this function, and not before the certified mediator entered on the court list. The number of mediations in proceedings regarding the professional liability of doctors is still very low. For example, in 2016, the mediator of the District Chamber of Physicians in Warsaw, K. Bielecki, received four applications for mediation, all of which directly to the interested parties. None of them has been referred by the Regional Spokesperson for Professional Responsibility or the Regional Medical Court[24]. In 2011, the mediator of the Lublin Chamber of Physicians, M. Domański, received three cases addressed by the Regional Spokesperson for Professional Liability in Lublin for undertaking mediation – none of them took place. Therefore, it seems that the change in the provisions of 63, 82 and 113 of the Act on chambers of physicians would allow a wider use of mediation, giving the possibility of

[22] Article 63 of the Act on chambers of physicians states that proceedings regarding the professional responsibility of doctors are not commenced and the proceedings are discontinued if: 1) the act has not been committed or there is not data sufficiently justifying the suspicion of committing it; 2) the act is not a professional offence or the act stipulates that the offender does not commit professional misconduct; 3) the accused has died; 4) the cessation of criminal sanction occurred; 5) proceedings regarding the professional responsibility of doctors regarding the same act of the same person have been validly concluded or previously initiated.

[23] See Article 82 of the Act on chambers of physicians.

[24] Sprawozdanie z pracy Ośrodka Doskonalenia Zawodowego Lekarzy i Lekarzy Dentystów Naczelnej Izby Lekarskiej za 2016 rok, NRL/06.17/07, www.nil.org.pl/__data/assets/pdf_file/0008/112958/Sprawozdanie-za-rok-2016.pdf [access: 25.09.2017].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

self-determination of parties in the dispute resolution, settlements satisfying both parties, non-escalation of the conflict, and on the other hand, would relieve the spokesperson and medical courts[25].

Due to the increasing number of proceedings due to medical events, the role of mediation will grow proportionally. It may turn out to be the best way to respond to unwanted medical events that an inevitable and inherent element of medical services. Based on the above considerations, the suggestion is that existing regulations require drastic and immediate changes[26].

SUGGESTED CHANGES

The provisions of the Act on chambers of physicians allow for the proper application of the provisions of the Act of 6 June 1997 – Code of Criminal Procedure. Therefore, it seems justified that, in mediation proceedings based on the Act on chambers of physicians, it would be possible to establish a court mediator from among the mediators entered into the list kept by the competent local President of the District Court. There is no doubt that a permanent court mediator has appropriate qualifications and experience in conducting proceedings, often incomparably greater than the mediator established in the case, thus providing a guarantee of the quality of the mediation carried out and increasing the chances of the parties reaching a settlement.

Another solution proposed by me is the creation of own lists of mediators by chambers of physicians, including not only doctors. Mediators, wishing to sign up on the list kept by the appropriate chamber of physicians, analogically to the requirements for entry on the list of mediators kept by the courts, whether in criminal or civil cases, would have to submit a statement on the full use of civil rights, a current certificate of no criminal record, a copy of the diploma of completing the training to become a mediator (certifying the competence), letters of recommendation. Candidates, in order to demonstrate competence, could also submit information on professional experience certifying knowledge in medical law, as well as information that they are on the list of the President of the District Court in criminal matters or are permanent mediators, which is important from the point of view of the possible approval settlement by the court.

The use of chambers of physicians from the list of trustworthy institutions or persons entitled to conduct mediation proceedings in criminal matters, permanent

[25] Sprawozdanie z działalności Mediatora Lubelskiej Izby Lekarskiej za rok 2011, www.oil.lublin.pl/download/2012/20120317-sprawozdanie_mediator.pdf [access: 25.09.2017].

[26] J. Berezowski, *Elementy mediacji w postępowaniach związanych z wystąpieniem zdarzeń niepożądanych w ochronie zdrowia*, [in:] *Wokół praktycznych i teoretycznych aspektów…*, p. 180.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

mediators, or their own list, but created by mediators with appropriate education and experience in this area, would allow the use of a mediation institution in proceedings in the subject on the professional liability of doctors in accordance with its fundamental principles, and even settlements could be approved by the court and include additional provisions related to the case (e.g. compensation).

On the other hand, based on the legislator's assumption that mediator-doctor should perform mediation (due to his professional knowledge), I would suggest including a second mediator (co-mediator) in the mediation, from the list kept by the courts. This would primarily ensure the balance of the parties. A mediator who is not a doctor would be the guardian of impartiality and neutrality, while the mediator-doctor would serve with his medical knowledge.

In summary, changing the regulations and giving more importance to mediation in the described proceedings are obviously necessary. The benefits of it are undisputed and the appreciation of them can only bring positive changes, both from the point of view of the the aggrieved patient and the accused doctor.

REFERENCES

Berezowski J., *Elementy mediacji w postępowaniach związanych z wystąpieniem zdarzeń niepożądanych w ochronie zdrowia*, [in:] *Wokół praktycznych i teoretycznych aspektów mediacji*, red. P. Malinowski, H. Duszka-Jakimko, A. Suchorska, Kraków 2015.

Bieńkowska E., *Mediacja w sprawach karnych. Stan prawny na 1 września 2011 r.*, Warszawa 2011.

Czy tylko sąd rozstrzygnie nasz spór? Mediacja i sądownictwo polubowne. Informator o alternatywnych sposobach rozwiązywania sporów, red. A. Rękas, Warszawa 2010.

Dukiet-Nagórska T., [in:] J. Watoła, *Mediator będzie lekarzem, ale czy zrozumie pacjenta?*, http://katowice.wyborcza.pl/katowice/1,35063,7436036,Mediator_bedzie_lekarzem__ale_czy_zrozumie_pacjenta_.html?disableRedirects=true [access: 16.09.2017].

Hartman J., *Bioetyka dla lekarzy*, Warszawa 2012.

Husarz R., *Mediacja jako polubowne rozwiązanie sporów medycznych*, [in:] *Wokół praktycznych i teoretycznych aspektów mediacji*, red. P. Malinowski, H. Duszka-Jakimko, A. Suchorska, Kraków 2015.

Informacja dla radia Poznań, http://radiopoznan.fm/informacje/pozostale/mediacje-zamiast-procesow [access: 11.09.2017].

Kozik M., *Postępowanie z zakresu dpowiedzialności zawodowej*, www.oil.org.pl/xml/nil/gazeta/numery/n2010/n201005/n20100519 [access: 11.09.2017].

Newman D.H., *Cień Hipokratesa. Tajemnice domu medycyny*, Kraków 2010.

Przyrzeczenie lekarskie, www.nil.org.pl/__data/assets/pdf_file/0003/4764/Kodeks-Etyki-Lekarskiej.pdf [access: 25.09.2017].

Rajca M., Nowosielska E., *Postępowanie mediacyjne w ramach odpowiedzialności zawodowej lekarzy*, „Biuletyn Informacyjny Opolskiej Izby lekarskiej" 2011, nr 175, www.izbalekarska.opole.pl/informacje-wyborcze/item/download/41_bfd98a725b3109205e898e0ed748b5c1 [access: 16.09.2018].

Realizacja zasady informed consent w kontekście relacji lekarz – pacjent. Wyzwania i bariery rozwojowe w Polsce, Warszawa 2012, www.rpo.gov.pl/pliki/13584264060.pdf [access: 11.09.2017].

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 31/10/2026 16:30:52

Skrodzka M., *Podstawowe zasady postępowania mediacyjnego*, http://docplayer.pl/10660482-Podstawowe-zasady-postepowania-mediacyjnego.html [access: 11.09.2018].

Sprawozdanie z pracy Ośrodka Doskonalenia Zawodowego Lekarzy i Lekarzy Dentystów Naczelnej Izby Lekarskiej za 2016 rok, NRL/06.17/07, www.nil.org.pl/__data/assets/pdf_file/0008/112958/Sprawozdanie-za-rok-2016.pdf [access: 25.09.2017].

Sprawozdanie z działalności Mediatora Lubelskiej Izby Lekarskiej za rok 2011, www.oil.lublin.pl/download/2012/20120317-sprawozdanie_mediator.pdf [access: 25.09.2017].

Standardy prowadzenia mediacji i postępowania mediatora uchwalone przez Społeczną Radę do spraw Alternatywnych Metod Rozwiązywania Konfliktów i Sporów przy Ministrze Sprawiedliwości w dniu 26 czerwca 2006 r., www.ms.gov.pl/Data/Files/_public/mediacje/adr1/adr_standardy_mediacji.rtf [access: 11.09.2018].

Act of 2 December 2009 on chambers of physicians (Journal of Laws, 2017, Item 836).

Uzasadnienie rządowego projektu ustawy o izbach lekarskich, druk sejmowy VI kadencji, nr 2151, http://ww2.senat.pl/k7/dok/sejm/044/2151.pdf [access: 24.09.2017].

Wrześniewska-Wal I., *Mediacja lekarz – pacjent. Alternatywna forma rozwiązywania sporu*, „Fides et Ratio" 2016, nr 2(26).

STRESZCZENIE

Ustawa o izbach lekarskich przewiduje możliwość skierowania stron do postępowania mediacyjnego, czego celem jest m.in. załagodzenie konfliktu pomiędzy pokrzywdzonym pacjentem a obwinionym lekarzem. W zależności od etapu danej sprawy do mediacji kieruje rzecznik odpowiedzialności zawodowej – w toku postępowania wyjaśniającego, albo sąd lekarski – w toku postępowania przed sądem lekarskim. Mediatorem może być tylko lekarz wyznaczony z danej izby jako osoba godna zaufania, co może rodzić wątpliwości w zakresie jego bezstronności oraz neutralności wobec sprawy i stron postępowania.

Słowa kluczowe: mediacja; zasady mediacji; izba lekarska; odpowiedzialność zawodowa lekarzy