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Medical negligence dispute resolution: A role for facilitative mediation and principled negotiation? – Tony Bogdanoski
This article critically examines the potential of using facilitative mediation and principled negotiation to resolve medical negligence disputes. It argues that such methods of dispute resolution are a better means of resolving these complex disputes, in contrast to the conventional use of settlement negotiations, positional bargaining and litigation, since they are inherently capable of addressing the non-financial needs and interests of the parties directly involved in the dispute. However, the article also recognise there can be problems with using these methods of dispute resolution due to the complex power relations between the parties involved. Nevertheless, it ultimately concludes that the benefits of using facilitative mediation and principled negotiation outweigh their possible limitations in the medical negligence arena. ................................................................. 77

No longer neutral: Practitioner power in compulsory (family) dispute resolution – Nigel W Polak
This article explores the ethics of power in compulsory dispute resolution. Recent changes to the Family Law Act 1975 (Cth) mean that the traditional ethical bastions of voluntary participation and mediator neutrality are no longer applicable to contemporary family dispute resolution. In addition, practitioners are required legally to assert expert power in relation to the “best interests” principle and make decisions as to the “genuine effort” made by participants. While “child-focused” and “child-inclusive” practices are current trends towards establishing ethical practice, it is argued that an ongoing stance of reflexivity towards individual and collective practice is required. ................................. 88

Humour in mediation: Sparking laughter through improvisation – Kathy Douglas and Andrew Bayly
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Mediation and facilitation – commonalities and differences – Robin Saunders

Experience with mediation and facilitation is used to draw together common threads and to examine some areas of significant differences. Facilitation is broadly viewed as including traditional facilitation of groups wishing to explore issues of concern, as well as chairing consultative committees and public meetings, where there is often significant controversy. While the process and management of different forums take quite different forms, the importance of the principles of conflict management, seen through the lens of empowerment, are drawn out in examples. Perhaps the key difference between mediation and facilitation arises through the presence of the client, the client’s understanding of the purpose of consultation, and the way the facilitator’s duty to the client is perceived by all parties. ..................................................................................................................................... 104

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