

The University of Maryland School of Law
Center for Dispute Resolution (C-DRUM)

and

CHORDA Conflict Management, Inc.

Invite You to Attend

**Resolving Medical Malpractice Disputes:
Featuring the *Two-Track*_{sm} Model
of Attorney Representation**

8:00 am – 5:00 pm

October 13, 2006
October 20, 2006
November 17, 2006

St. Paul, Minnesota
Baltimore, Maryland
Houston, Texas

Resolving Medical Malpractice Disputes: Featuring the *Two-Track* Model of Attorney Representation

Objective: Learn to use *Two-Track* procedures in medical malpractice cases to serve clients from engagement to case closed.

Content & Subject Matter: With medical liability costs making up 10% of the national health care budget (Price Waterhouse Coopers 2006), the topic of medical malpractice continues to draw national attention. Legislatures have debated and enacted state and federal legislation and tort reform; patients, hospitals, and interest groups push for increased patient safety; and the judicial system discusses fairness, consistency, and alternative dispute resolution. Even with tort reform in place in traditional litigation models, less than 50% of the damages award goes to the injured party. In addition, many patients cannot obtain legal representation because their claims are not large enough. The *Two-Track* model allows attorneys to present solutions to the issues of cost control and party satisfaction by working within the existing system, without waiting for legislative reforms. The model combines the advantages of client-based decision making and communication through multi-party negotiation and mediation while preserving the option for adjudicatory procedures.

Inspired by the Solicitor/Barrister model in the United Kingdom, in the *Two-Track* model an attorney represents a party for negotiation/mediation (Track 1) or arbitration/litigation (Track 2), though not both on the same case. The *Two-Track* model is flexible and creates opportunities and incentives for both plaintiffs' and defense attorneys and their clients. The model provides a forum for the parties to ethically, cooperatively, and creatively explore non-economic solutions (such as acknowledgement, apology, and corrective action) as well as restitution. The model also allows confidential, cooperative resolution of potential professional liability claims while preserving the rights of parties in subsequent litigation, if that becomes necessary.



**Resolving Medical Malpractice Disputes:
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AGENDA

Welcome and Introduction

Case Analysis—Sandra's Story

***Two-Track* Tools**

- Review of communication skills, negotiation/mediation steps, collaborative versus adversarial bargaining, *Two-Track* Procedures Manual.

Sandra's Case in Track 1: A Simulation

- Step 1: Opening the Process: Parties and Attorneys
- Step 2: Setting the Agenda and Cooperative Discovery

Lunch: Informal Conversations About the Morning Session

Sandra's Case: Continued

- Step 3: Negotiation
- Step 4: Facilitated Meeting of Parties (Optional)
- Step 5: Closing and Track 2

Evaluation of Case: Economic, Legal, Psychological (e.g., Payment to Patient, Attorneys' Fees, User Satisfaction (Parties and Attorneys))

Wrap Up and Next Steps for Use of the Model

FACULTY

Stephen K. Erickson, J.D., a licensed attorney who has mediated many types of disputes in private practice since 1977, founded and served as president of the Academy of Family Mediators. He is an adjunct professor at the William Mitchell College of Law where he has taught mediation courses for the past seven years. A nationally known mediation trainer and speaker, he is co-author of *The Practitioner's Guide to Mediation, a Client-Centered Approach*, published by Wiley & Sons. He recently served on the Board of Directors of the International Association for Conflict Resolution and Co-Chaired its special task force on Certification of Mediators. He and his partner Marilyn McKnight were awarded the Distinguished Mediator Award by the Academy of Family Mediators and have co-authored five highly successful books on mediation.

Diane Hoffmann, M.S., J.D., is Associate Dean for Academic Programs, Director of the Law and Health Care Program, and Professor of Law at the University of Maryland School of Law. She received her M.S. in Health Policy and Management from Harvard School of Public Health and her J.D. from Harvard Law School. She was a primary author of Maryland's Health Care Decisions Act, and has served on numerous ethics committees including the University of Maryland Medical Systems, the National Institutes of Health in Bethesda, and the VA Medical Center in Baltimore. The author of *A Handbook for Nursing Home Ethics Committees (AAHSA)* and several major articles, she is founder of the Maryland Healthcare Ethics Committee Network.

Marilyn S. McKnight, M.A., mediator, trainer, parent coordinator and author, has practiced exclusively in the field of mediation since 1977 after an extensive career in public social work. She is an adjunct professor teaching divorce mediation at William Mitchell College of Law. She serves on the Board of the National Association for Conflict Resolution, is a member of the Association of Family and Conciliation Courts, and served on the Board and later as President of the Academy of Family Mediators. She and her partner Steve Erickson were awarded the Distinguished Mediator Award by the Academy and have co-authored five highly successful books on mediation. In addition to her private practice in the Twin Cities, Marilyn trains and presents at mediation and conflict resolution conferences throughout the year all over North America.

Diane W. Slaikeu, J.D., is a graduate of The University of Texas School of Law and co-author of “Confidential From General Counsel to CEO: ‘I’m Fed Up, and We’re Not Going to Take This Anymore!’” (*Journal of Health Care Law and Policy*). Her general civil law practice evolved exclusively into a negotiation and mediation practice. Ms. Slaikeu also has extensive experience as a trainer in communication skills and mediation. A member of the State Bar of Texas, the South Carolina Bar Association (inactive), the Association of Family and Conciliation Courts, and the Association for Conflict Resolution, she has served as adjunct faculty at the Strauss Institute for Dispute Resolution of the Pepperdine School of Law, Abilene Christian University, and Austin Presbyterian Theological Seminary.

Karl A. Slaikeu, Ph.D., founder and CEO of CHORDA Conflict Management, Inc., is a psychologist, mediator, and internationally recognized author. He held a tenured faculty position in the Department of Psychology at the University of South Carolina, and taught in the Department of Psychology at The University of Texas at Austin. Dr. Slaikeu is the author of *When Push Comes to Shove: A Practical Guide to Mediating Disputes*, and co-author of *Controlling the Costs of Conflict: How to Design a System for Your Organization*, as well as other books and articles on crisis and conflict management. He is known for his innovative application of conflict principles to capture the benefits of collaborative conflict resolution.

Roger Wolf, J.D., Director of the Center for Dispute Resolution (C-DRUM) at the University of Maryland School of Law, is a graduate of Harvard College and George Washington University Law School. He is a trained mediator and trainer of mediators and has taught at the University of Maryland School of Law since 1982, where he also directs the law school’s mediation clinic. He was the reporter for the Special Committee on Alternative Dispute Resolution of the Maryland State Bar Association, is past chair of The Section for Dispute Resolution of the State Bar and The Baltimore City Bar, and is chair of the Professional Responsibility Committee of the Maryland Mediation and Conflict Resolution Office (MACRO) and a member of its executive committee.

DATES & LOCATIONS

Friday, October 13, 2006

8:00 AM – 5:00 PM

William Mitchell College of Law
Room 123

875 Summit Avenue

St. Paul, Minnesota 55105

7.5 hours CLE*

Friday, October 20, 2006

8:00 AM – 5:00 PM

University of Maryland
School of Law

Krongard Room

500 West Baltimore Street
Baltimore, Maryland 21201

Friday, November 17, 2006

8:00 AM – 5:00 PM

Texas Medical Center
Treviño

6500 Bertner

Houston, Texas 77030

7.5 hours CLE—includes 1 ethics hour*

SPONSORS

C-DRUM

The Center for Dispute Resolution at the University of Maryland School of Law works collaboratively with individuals and groups, as well as public and private institutions, to promote, enhance, and teach conflict resolution skills; research and develop conflict resolution systems; and change the way conflicts are resolved throughout the state of Maryland and beyond. C-DRUM has served as the neutral convener on three conferences addressing conflict in the health care field and continues to encourage conversation and alternative methods for dealing with health care conflicts. For more information, visit www.cdrum.org.

CHORDA Conflict Management, Inc.

Headquartered in Austin, Texas, CHORDA is an international leader in the field of conflict management and resolution. CHORDA partners with internal teams to bring the benefits of early conflict resolution—reduced stress, saved time and money (legal expenses and indemnity, and insurance costs), and strengthened relationships—to health care, elder care, and other organizations.

CO-SPONSORS

Maryland Hospital Association

Ringler Associates

William Mitchell College of Law

Maryland State Bar Association
Health Law Section

Texas Hospital Association

MedChi: The Maryland State
Medical Society

**This course has been approved by the Minnesota State Board of Continuing Legal Education for 7.5 hours in the following category or categories of credit: standard continuing legal education.*

**This course has been approved by the Texas Board of Legal Specialization for certification and recertification continuing legal education requirements for attorneys and legal assistants in the following specialty fields: Civil Trial Law, Personal Injury Trial Law.*

REGISTRATION FORM

PLEASE COMPLETE AND RETURN REGISTRATION FORM AND CHECK TO:

LU ANN MARSHALL, UNIVERSITY OF MARYLAND SCHOOL OF LAW,

500 WEST BALTIMORE STREET, BALTIMORE, MD 21201-1786

410-706-4128 (PHONE) / 410-706-4045 (FAX)

OR **REGISTER ONLINE AT:**

[HTTP://WWW.ACTEVA.COM/BOOKING.CFM?BEVAID=116670](http://www.acteva.com/booking.cfm?bevaID=116670)

Name (please print)

Affiliation or Employer

Address

City, State, Zip Code

Daytime Telephone Number / FAX / Email

Registration Fee

(Please make checks payable to “University of Maryland”)

_____ **\$290—October 13 (ST. PAUL)**

_____ **\$290—October 20 (BALTIMORE)**

_____ **\$290—November 17 (HOUSTON)**

For directions to the Workshop site(s), CLE updates and/or other information, please visit our website at <http://www.cdrum.org>