Dissertation Submission Form

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Topic- *A critical review of mediation services in nursing home settings*

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I am grateful to my peers for showing their support in the research where I have got their backs to assists me. My teachers have even supported me by suggesting the different sources that are to be followed. From the online sources, I have gained maximum information about the research topic.

Abstract

In the introductory section, a detailed discussion has been done on the reasons for which conflicts on go on been generated in a healthcare setting and hampering effective service provision. Therefore, most of the time, those conflicts end up meeting legal procedures that cause a huge financial burden and reputational damages to the involved parties. However, it is a known fact that conflict is irremovable where multiple interprofessional service providers work together as well as requirements are getting changed massively. In this scenario, the importance of a quick, flexible and humane approach is increasing which can be achieved through the successful implementation of mediation services. Thus, this chapter along with forming a detailed background of the significance of mediation services in a nursing home setting established relevant aims and objectives that will help in determining to what extent this particular service will be able to offer long-term solutions to the diverse conflicts generated in the healthcare sector.

The second chapter of the literature review covered the features and subject matter related to conflict theories that proved to be effective in understanding the impact of the nursing practices that were designed and applied in a systematic way. The resolution of the conflicts within the nursing home settings was demonstrated and analysed. The effect of conflict upon the functioning of the nursing homes was discussed and analysed. The socio-ecological framework and its steps was covered in an efficient way. The critical and transformation theory was covered to discuss and analyse about the nursing practices that had to be executed in a perfect way. The necessity of incorporating the mediation activities in nursing homes proved to be significant.

Secondary data collection method has been followed in this research where critical review of mediation services are done using thematic analysis. For this, interpretivism, induction approach, explanatory design and non-probability sampling strategy is considered to manage the inclusion and exclusion criteria of research paper for collecting sample. Moreover, limitation of the research are low budget and shortage of time.

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Chapter 1: Introduction

1.1 Background of the research topic

The conflict between family members and nursing home staff and is a commonly occurring incident due to differences in opinion and work processes. The heavy involvement of families in nursing home settings make the staff sceptical and they mistake their involvement for a lack of faith in their nursing abilities. Family members misunderstand the nurses because they do not manage numerous patient workloads or have legally mandated obligations, which the nurses do (Menkel-Meadow, 2015). The staff members in nursing homes feel that the expectations of families regarding the reception of individualised care to be unrealistic and feel that the complaints made related to personal matters are trivial and unimportant. One of the reasons for conflict is the struggle that the family caregivers and staff members go through for controlling the resident care. Both the nurses and the family members have a lack of information about the duties and experience of the other and hence do not understand the workload from their perspective, which leads to more conflict. Nevertheless, the nurses rely on personal experience for engaging in role-playing and this leads to an increase in empathy for the family caregivers (Attri *et al.,* 2015).

These conflicts require mediation to resolve the conflict and arrive at a constructive decision. When there is a conflict between the patient's family caregivers and nurses in a nursing home, a mediation is agreed upon by the parties to resolve the legal case. Here the role of the mediator is crucial as they are responsible for resolving the issue. Mediation provides a platform for the family members and the staff members in the nursing homes for accurate decision-making and it is completely confidential and voluntary (McKibben, 2017). The mediators guide the nurses and the family members through a guided and focused discourse where both the parties are encouraged to communicate their concerns and interests. There are two purposes for mediation; the first one is allowing the parties mutually acceptable and workable solutions for both the parties and secondly, it helps in increasing the communication among the parties so that both can work successfully for the benefit of the patient.

Some of the reasons for dispute or conflict among the families and the staff members in a nursing home include a disagreement in the care provided, billing issues, kind of services offered by the nursing home, and any neglect or abuse of the patient. These issues require mediation services in the nursing home settings and mediation acts as a cost-effective alternative method for a lawsuit that can be filed by the patient's family against the nursing

home. Mediation is a voluntary service where both parties enter voluntarily; however, in many cases, it can be ordered from the court (Morreim, 2015). Mediation services have proved to be effective in nursing home settings as it allows both the parties to express their problems and concerns and they are also heard during the mediation process. In the words of Fiset *et al.,* (2017), mediation service is better than the litigation process as the communication between the two parties are cut off and they are turned into adversaries. The plaintiff with the help of the mediator can put forth their concerns and both the parties work and brainstorm together to arrive at a mutually acceptable decision.

Mediation allows all parties to gain a better understanding of each other's concerns. This procedure is completely optional and confidential, as well as neutral, balanced, and secure. It is a method of including vulnerable residents and their families in decision-making that benefits their care. When it comes to resolving problems, solutions can arise from a new perspective based on what is fair rather than what is demanded. Mediation is both faster and less expensive than litigation. It serves as an alternative to filing a formal grievance, however, the option to register a formal grievance remains open (Moore, 2014). The mediation complaint process, when done correctly, can handle a large number of issues. Without the time, expense, or emotional toll imposed by other methods of dispute resolution, disputes can be resolved to the satisfaction of all parties. If negotiations fail to work out, there is always the option of pursuing legal action. Mediation allows the parties to reach mutual agreements on their terms, rather than relying on the mediator, and it allows for a win-win outcome. Mediation may help the parties repair and strengthen their current relationships, making it easier to resolve future conflicts (Coleman *et al.,* 2014).

However, mediation also has some drawbacks as per the research by Shamir (2016), where it is stated that mediation is a time-consuming process and might not be effective in time-sensitive circumstances. Mediation is ineffective when there is an imbalance of power and a good support system is lacked by the resident. Hence, here the role of a mediator is important as they use conflict-resolution skills to increase the communication between the two parties and provide them with information to increase their knowledge about the case. For instance, a mediator points out weaknesses in both parties to underline the relevant issues. Mediation services help in the facilitation of decision-making in a nursing home setting (Stipanowich and Lamare, 2014).

This research has undertaken a critical review of mediation services in a nursing home setting by carrying out extensive research in this area. The aim, objectives and research questions have been developed to critically evaluate the topic of the research and find out the reasons for the conflicts and how they can be mediated.

1.2 Research Aim and Objectives

Aim- The aim of the research is "*To carry out a critical review of mediation services in nursing home settings.*"

Objectives

> ➢ To carry out a critical evaluation of conflict in nursing homes
> ➢ To undertake a critical analysis of the resolution pathway in nursing homes
> ➢ To critically evaluate the long-term solutions in mediation

1.3 Research Questions

1. What are the reasons for conflict arising in nursing homes?
2. How can the resolution pathway in nursing homes be analysed?
3. What are the long-term solutions in mediation?

1.4 Problem Statement

Conflict in a nursing home setting arises due to many reasons. People's lifespans are increasing, and a growing percentage of the population is unable to live independently in their older years. Illnesses are linked with advanced age and a rising number of people require daily medical care, and many become reliant on long-term residential care provided by nursing facilities. Some residents in the nursing home adapt to the new routines and environment, while others deal with conflict and miscommunication (Kengatharan and Kunatilakam, 2020). As a result, life in long-term care in nursing homes becomes more difficult and potentially dangerous to residents' health. This increases the conflicts among the nursing home and the family of the patients. It has been observed that stress combined with a lack of communication leads to medical errors and mortality. This is why it is believed that conflicts emerge among various combinations of caregivers, staff, administrators, residents, and family members at long-term nursing care facilities (Moreland and Apker, 2016).

Furthermore, the prominence of close, intimate interaction between the parties concerned frequently creates tension. Residents often struggle to maintain the integrity of their personal space, freedom of movement, and rooms in a closed environment like a nursing home, thus

there is likely to be some level of routine aggravation. As a result, disputes and intrusions are common, as residents typically try to protect people or property (Falco-Pegueroles *et al.,* 2015). Apart from that, verbal and physical hostility has been linked to overcrowding in nursing homes, particularly when patients' movements are disrupted by those of other residents. When there is a collision or scuffling between the residences in this condition, aggressive behaviour is displayed, which can lead to disputes. Following that, because a nursing home is an interactive environment, it is common for active residents to initiate talks with other residents. Residents in this course could frequently use imperative remarks to exert social control over one another. The arousal of tension between individuals has often resulted from this type of mindset of having control over the other occupants. It has been discovered that accusations of theft of personal belongings or violation of privacy had also resulted in acts of hostility between residents on other occasions (Moreland and Apker, 2016).

If nurses are the target of the disagreement, it could have bad consequences not only for the worker but also for the organisation. Nurses may endure both physical and psychological effects as a result of this. Anger, anxiety, dread, PTSD symptoms, self-blame, guilt, and shame are all psychological effects. Furthermore, health-care personnel may have diminished job satisfaction and a greater desire to leave the organisation. Due to the lack of an efficient workforce, this would have a negative impact on the organisation's operation and reduce the health-related quality of life of the patients (Kelly *et al.,* 2016). As a result, strong conflict resolution skills are required of nurses for them to work effectively and successfully in the growing healthcare system. Furthermore, the author stated that conflict resolution will provide nurses and other healthcare employees with prospects for advancement. It would also help to enable change in the workplace so that beneficial results might be reached. Additionally, conflict resolution could assist an individual in achieving personal goals, while it could assist a hospital or nursing home in gaining a competitive advantage on a corporate level.

This has increased the need for mediation services in nursing homes as it helps in the timely resolution of the conflicts and provides a resolution pathway and long-term solutions. However, there is a lack of proper mediation services in nursing homes and this often leads to litigation and lawsuits by the patient's family. Studies have shown that mediation has helped in avoiding "nuisance lawsuits" as the patients and the nursing homes are encouraged and suggested to give up the unreasonable demands (Lahana *et al.,* 2019). In this context, some cases are either withdrawn or rejected and it has helped in saving the resources and time along with clarifying the legal and medical issues to both parties. However, mediation is still not

widely practised in nursing and the types of conflicts, a resolution pathway and the long-term impacts of mediation services in nursing homes.

1.5 Rationale of the Research

Demand for better healthcare services has been rising in tandem with the rapid growth of household income, resulting in increased healthcare spending. Simultaneously, several supply-side organisational reforms have been introduced to improve the efficiency and quality of healthcare services in nursing homes. Despite these gains, the expense and volume of medical litigation have increased in recent years. Patients' mistrust of nurses has grown, and the relationship between has deteriorated (Heponiemi *et al.,* 2014). Workplace violence has been linked to increased levels of professional stress and decreased job satisfaction, as well as causing psychological issues in nurses. In today's world, nurses and other healthcare professionals are extensively trying to address the issues of malpractice claims by the families of the patients. Medical malpractice has become a common phenomenon and therefore, it has become crucial to examine the resolution pathway for the conflicts (Yao *et al.,* 2014).

Mediation has great potential to improve the dispute-resolution system of tort-based medical malpractice and is gaining momentum in many nations due to its successful record in increasing the satisfaction and reducing expenses of the parties. Mediation is an engaging, structured debate on the topic involved, in which both sides agree with the support of a trained neutral third party who contribute to a resolution. Mediation is a free-standing procedure. Mediation aims to maintain the connection between the parties intact and this is achieved through communication. The mediation process is designed to come at dynamic solutions for both parties, which are mutually acceptable while taking into account both their interests instead of only assigning blame (Cheung *et al.,* 2018). While several stages in the process might be included in the preparation of a medical mediation, such as discovery, depositions, presenting evidence and discussion as well as opening-up and closing arguments, the purposes of the mediation process are different. Increasing the potential of closure, opening communication doors, rebuilding relations and providing flexible and practical solutions to the issue are all objectives of mediation in a timely and cost-effective way.

Mediation would be the best way to overcome disputes over the long term in the healthcare profession, and all parties involved in the process would profit. Medical lawyers often require that their customers avoid being associated with the injured patient, or speaking with him/her, to prevent making damning remarks from their clients. The capacity of the patient to raise

inquiries, find answers or even hear a simple apology leading all to their conclusion is so stifled. The results of the process of mediation, as well as the papers and debates that have taken place in the course of the settlement, are kept confidential by the parties, and an additional secrecy clause may be imposed by the parties when settlement conditions are written (Zhuang and Chen, 2015). The parties are encouraged to report openly, and the questions and responses provided by the doctor of the complained party in a private environment enable the complained party to obtain information closure, diminish its wrath and advance towards a mutually acceptable settlement.

Empirical evidence shows that mediation services take around 85-165 days and 10 hours approximate is required for an average attorney to prepare themselves. There is also an increased satisfaction level among the parties and therefore, there are lesser conflicts. Therefore, it can be stated that mediation services are a crucial requirement in nursing homes as it offers a communicative and cooperative resolution of medical disputes and is more effective than the adversarial method of litigation.

1.6 Purpose and significance of this study

Since the past few decades, lifestyles of people are changing significantly and parallelly, the demands of advanced healthcare services are also growing at the same pace. Woo *et al.* (2017), have pointed out that with the emergence of crucial demographic changes especially in the area of disposable income, the tendency of spending solid amounts to attain the most superior medical facilities and attention is rising by leaps and bounds. Besides, in the context of healthcare, new demands go on being generated. With increasing regular lifespan, a strong proportion of older citizens are there who do not possess the ability to work on their own as well as suffer from chronic physical and mental health issues. Such instances need regular monitoring, diagnosis, and continuous provision of medical care to keep them protected.

Therefore, compared to the past times, currently, requirements and necessities related to medical services are changing and due to this, the emergence of new roles, responsibilities, and facilities in this sector are highly evident. However, in this scenario, the level of conflicts between patients or patient parties and medical staff are increasing, making the situations more challenging to offer advanced critical healthcare services with greater ease and continuation. Jensen *et al.* (2015), have found out that with the advancement of medical systems and facilities, the increasing demand for superior services, and the changes in the traditional healthcare model have widened the path of the involvement of patients and their related people

in the entire medical procedures. This is the main reason for which arguments and conflicts have become common in the medical care sector and thereby, the number of lawsuits and litigations are also increasing heavily.

Even after revamping the organizational supply measures and systems in the nursing homes to offer better health and medical care facilities, no such strong resistance has been gained to control the conflict-related issues. Besides, the most striking issue of contemporary medical care and nursing home settings is the growing mistrust against doctors, nurses, and other medical service providers from not only patients' families and relatives but the patients themselves (Van Keer *et al.,* 2015). Such instances of mistrust ultimately lead to the accuses of medical malpractice which often turn to workplace violence. Though doctors, nurses, and other medical professionals go on putting their best efforts to mitigate the claims made by the patient parties against them regarding medical malpractices, it often causes severe job dissatisfaction, demotivation, and physical and emotional insecurities.

Therefore, a strong need is growing to resolute these conflicts in order to protect medical professionals from such vulnerabilities and make the patients and patient parties understood that their requirements would be fulfilled in the best possible way. Hence, here the need for mediation services is enhanced that is considered as highly beneficial in fostering a safe environment where both the parties can open up to clarify their issues that cause disputes by improving communication and engagement level (Wang *et al.,* 2020). Therefore, this study is centred upon the purpose of reviewing the necessity of mediation services in the modern nursing home settings which are strongly convenient and significant if considered from the perspective of the current troublesome situation of the medical service requirements and provision.
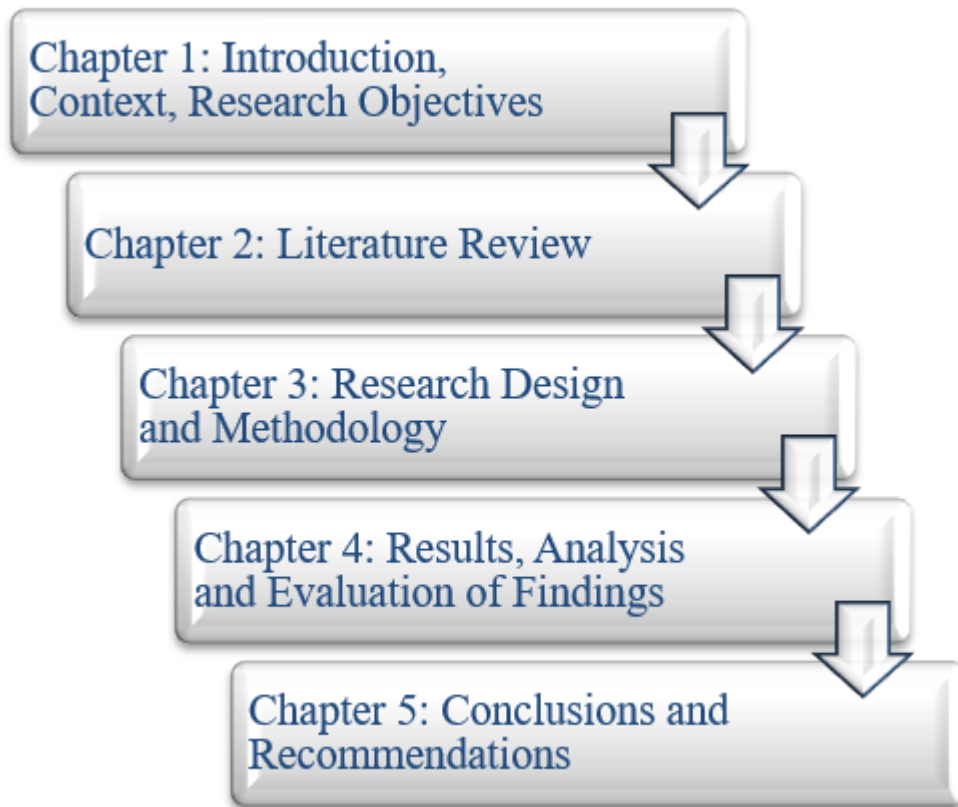
1.7 Structure of the research

Chapter 1: Introduction, Context, Research Objectives

Chapter 2: Literature Review

Chapter 3: Research Design and Methodology

Chapter 4: Results, Analysis and Evaluation of Findings

Chapter 5: Conclusions and Recommendations

Figure 1: Structure of the Dissertation

(Source: Created by the author)

Chapter 2: Literature Review

2.1 Introduction

In this chapter of the dissertation, the existing literature related to mediation services that are prevailing within the Nursing Home settings would be reviewed and discussed. In this context, critical analysis will be carried out on different relevant literature that has provided information related to conflicts taking place in the nursing homes and the resolution of these steps that have been adopted by the hospitals and care homes to resolve the issues. Mediation analysis of case studies related to treatment of different patients will be handled in a well-planned way within the healthcare sector in nursing homes. The quality-based initiatives could be defined and specified in a smooth and well-planned way within the society. Along with this, the literature gap will also be identified and mentioned at the end of the chapter.

According to Peterson et al. (2019), the features and steps of social conflict theory will help to design the specific framework that offers the basic information related to conflict dynamics within the nursing home settings. The features that fall under the socio-ecological framework are helpful for maintaining the behavioural traits of the nurses and the other healthcare staffs who operate within the nursing home setting in the society. The nursing home staffs along with the different patients are influenced by the different types of nursing home settings that exist and are applied in a well-planned way within the nursing home care activities. The infrastructural framework under which the social conflict theory and its activities could be implemented will be explained in a logical way.

The leadership capacities that could be identified among the nurses could be used to great effect for ensuring that the conflicts could be solved with ease and perfection within the nursing home care settings that existed in the society. The resolution of conflicts in the nursing home settings had to be done in a planned and systematic way by adhering to the basic healthcare patterns and objectives that are designed in a quality way. The application of transformative learning being specified by the programs would prove to be prospective for the nurses to ensure that the overall goals could be achieved in a beneficial and significant way.

2.2 Social Conflict theory

According to the study conducted by Sunderland Manousso (2018), social conflict theory provides the framework which can offer insight into conflict dynamics in nursing home facilities. Homan who is a social process theorist as well as an observer in the exchange theory had informed that conflicts take place only in those situations when an individual is found to

stay committed in an inequitable social relationship. This is because such an individual is unable to leave the relationship, unlike the other individual. In the case of the nursing homes, the administrators, as well as the staff, are found to have more power than the management; thus, it is likely that they may enter into conflicts due to diversified thinking.

However, in nursing homes or care homes whenever conflict arises between the service users and the service providers, the patients and their family members are often found to be too frail as well as unmotivated. In addition to this, the patients or the residents are also limited to certain facilities by financial constraints due to which they fail to leave. On the other hand, in the conflict between the lower hierarchical level employees and between the higher management, often the employees do not challenge the administrators or leave the setting due to some personal needs. The author revealed that such kind of need could be the requirement of the resident to stay in the hospital as it could be close to their home. Thus, it leads to the existence of an inequitable system in which the authority comes to the top-down and it passes diminishing degrees to the patients, their family members and even to their staff.

2.3 Social-ecological framework

According to Schlüter *et al*. (2019), the social-ecological framework emphasises the interconnection of the human interaction with the physical along with sociocultural surroundings. Thus, the approach had included varied influences that the human interactions could have on multiple levels rather than psychological or biophysical variables at the individual level. As per this framework, the nursing home has been conceptualised as a highly contingent environment where the behaviour of the individual resident cannot be easily separated from the behaviour of the social partners with whom the individual is interacting. In addition to this, it also states that the behaviour of the individual resident along with that of the dyads are contingent on the environment of the nursing home.

Further, as per the study led by Pillemer *et al.* (2012), the social-ecological model is in favour of the fact that even if the behaviour of the resident appears to be the source of a problem, such behaviour does not take place in a vacuum rather it is shaped by the physical and the social environment in which the resident is existing. Therefore, rather than correlating the behaviour significantly to a single personal, environmental or behavioural factor, the social-ecological framework had included diverse influences at multiple levels.

The ecological model had been applied to a large number of nursing home settings that have been exemplified by the Classic work of Lawton. Based on those works, it stated that resident

to resident aggression is one of the most potential outcomes of a poor fit between the capabilities of a person with that of his physical and social environment (Davidson *et al.,* 2018). In addition to this, the nature of interaction taking place during resident-to-resident aggression increases the complexity of the phenomenon. In such a situation, the factors that are contributing to the aggressive behaviour can be better understood by analysing the needs, person-environment fit along with antecedents and the consequences for both the members who were involved in the aggression.

2.4 Conflicts during long term care nursing facilities

According to the study led by Suetens *et al.* (2018), as the lifespan of people is increasing, a higher percentage of the population fail to live independently in the later phase of their life. Therefore, an illness associated with advanced age indicates that an increasing number of people need daily medical care as a result of which many become dependent on the long-term residential care provided in the nursing homes. In such a situation, some of the residents are found to adapt to the new routines as well as the environment; however, others counter conflict as well as miscommunication. This in turn makes living in long term care facilities adversely challenging and potentially threatening to the health of the residence. The study led by Sunderland Manousso (2018) stated that stress coupled with lack of communication ultimately ends up in medical errors and fatalities. This is the reason due to which it is stated that in long term nursing care facilities several conflicts arise among various combinations of caregivers, staff, administrators, residents and family members. Besides, the prevalence of personal, intimate interaction between the involved people often provides the scope for conflict.

On the other hand, the study conducted by Pillemer *et al.* (2012) used a qualitative approach for identifying the different events that could lead to resident-to-resident aggression and therefore conflicts. The study revealed that one of the events that could lead to aggression or conflict is the invasion of privacy of personal integrity. In this regard, the author stated that in a closed environment such as Nursing Home, it is likely that some degree of routine aggravation would take place as residents are often found to struggle in retaining the integrity of their personal space, freedom of movement and rooms. This in turn often results in the occurrence of conflicts and incursions as the residents often make efforts to protect persons or property. Apart from this, verbal and physical aggression are found to stem out from the crowded situations in the nursing unit especially when the residents' movements are impacted by the movement of other residents. In such a situation, whenever collision or scuffling takes place

between the residence it leads to the display of aggressive behaviour and may give rise to conflicts.
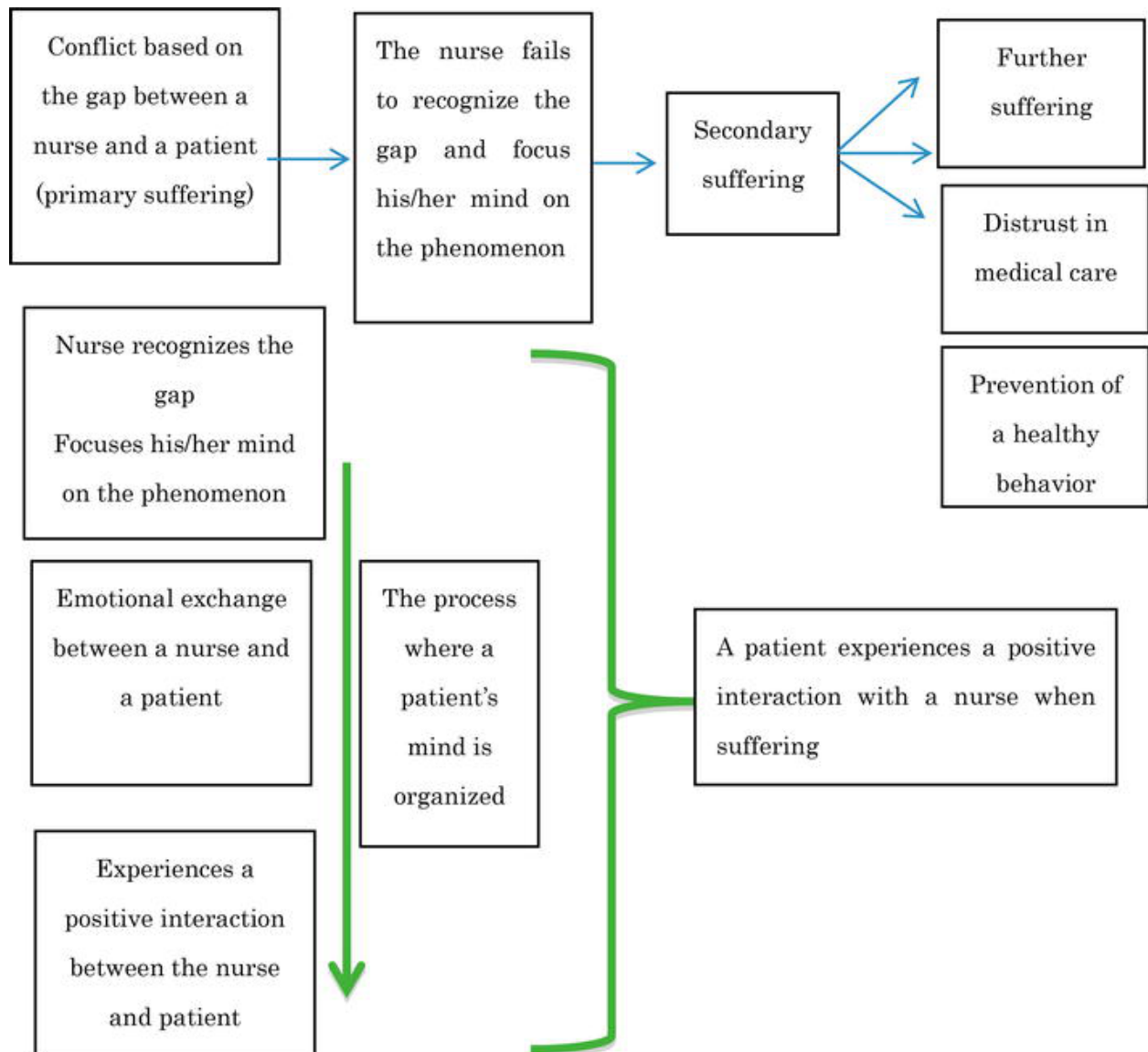

Figure 1: Nurse-Patient Conflict model

(Source: Uno, 2019)

Followed by this, as Nursing Home is an interactional setting, it is often found that active residents start conversations with other residents. In this course often the residents could exert social control over the others by using imperative statements. This form of the attitude of having control over the other residents has often led to the arousal of conflict between individuals. In some other cases, the authors had found that the accusation related to the theft of personal belongings or invasion of privacy have also led to the act of aggression between the residents (Pillemer *et al.,* 2012). However, accusations that have resulted in threatened

retaliation are the major cause of aggressive behaviour. Henceforth, numerous behaviours could lead to conflicts among the residents. In this context, the social as well as environmental characteristics of the nursing homes are most likely to contribute to resident aggression and ultimately conflicts. Henceforth, while analysing the conflicts, all the influential factors must be identified for better understanding the situation.

Another study conducted by Stevenson *et al.* (2015), revealed that the registered nurses are at higher risk of experiencing violence or conflicts in the workplace as compared to other health care workers. The violence is that is initiated by the patients and their family members. As stated in the literary work, between 25 to 80% of the nurses have been found to experience patient violence while they had been working in acute care hospitals. among all the departments, it was found that the psychiatric nursing population had been victims of verbal as well as emotional abuse and the percentage had been found. 55% on the other hand, 19.5% of the psychiatric nurses experienced sexual abuse and the remaining were found to face physical abuse.

2.5 Impact of conflicts on the functioning of the nursing homes

According to the theoretical underpinning of Stevenson *et al.,* (2015), if the victim of the conflict or abuse is the nurses or any health care worker then it could result in negative outcomes not only for the worker but also for the organisation. in this regard, the health care workers of the nurses could face both physical as well as psychological consequences. Some of the crucial psychological consequences include anger, anxiety, fear, post-traumatic stress disorder symptoms, self-blame, guilt and shame. In addition, the health care workers could also face decreased job satisfaction and may have an increased intention to leave the organisation. This in turn would affect the functioning of the organisation adversely and would lower the health-related quality of life of the patients due to the lack of an efficient workforce.

Similarly, the study carried out by Zhang *et al.* (2019) also revealed that conflicts had been one of the major reasons due to which hospitals and other care homes are faced with high staff turnover rates. In addition to this, the human resource manager of the hospitals has faced difficulties in improving the retention rate of the health care workers such as nurses and doctors. Along with this, the study revealed that Conflicts within the care homes and nursing homes have resulted in a hostile work environment that had directly affected the productivity of the workers. Along with this, it had also resulted in increased absenteeism among the workers

resulting in workload on the other workers. In such a situation, often the rate of medical errors had increased widely along with the decrease in the quality of the work.

Further, in the literary underpinning of McKibben (2017), the authors stated that whenever nurses face problems with peers and with doctors, it is likely that they have to spend a large amount of energy in coping up with the difficult situation. This, in turn, holds them away from focussing on the needs of the patients. On the contrary, if there is a good existence of interpersonal relationships then it is likely that it would contribute to the reinforcement of positive behaviour towards both the co-workers and the patients. Henceforth, it would help in improving the care and in providing person-centred care to the patients. On the other hand, conflicts occurring between the healthcare workers and the patients along with their family members would have a negative impact on the nursing home. This is because the spread of negative words would affect the reputation of the nursing home adversely. Henceforth, adequate actions must be taken by the authorities of the nursing homes so that such conflicts could be avoided or managed properly without letting it have an adverse impact on the nursing homes as well as on the quality of care being provided to the patients.

2.6 Conflict resolution in nursing homes

As per the study conducted by Lahana *et al.* (2019), nurses face significant difficulties in the nursing home concerning dealing with conflicts and avoiding conflicts. In addition to this, they also face problems in harbouring the emotions that have been created by the conflict such that they could act in covert ways. Henceforth, the nurses must have effective conflict resolution skills so that they can function effectively and successfully in the evolving healthcare system. Further, the author revealed that with the aid of conflict resolution, nurses, as well as other healthcare workers, would be able to receive growth opportunities. Additionally, it would also facilitate change in the work environment so that positive outcomes could be achieved. Moreover, on an individual basis, conflict resolution could help a person to accomplish personal achievements; while on an organisational level it would help the hospital or the nursing home to gain a competitive advantage. However, successful conflict resolution can be achieved with proper conflict management but along with this, there is also the requirement for higher effectiveness, openness and trust.

Further, the study conducted by Pinhatti *et al.* (2017), revealed that nursing homes can take effective measures for resolving the conflicts that could arise between the health care professionals or Health Care workers due to work stress. In this regard, the management of the

nursing homes and hospitals can opt for the option of rotation process between Hospital sectors. The authors stated that the rotation process would help in resolving the conflicts and would also provide the opportunity to the health care workers to increase knowledge and skills, recognise activities performed by their peers, improve interpersonal relationships and reduce resistance to work in another sector. However, this conflict resolution strategy could result in anxiety, frustration, distress and fear among the employees of the organisation. Therefore, the manager must share the proposal with the team before its implementation. These will help the employees of the hospitals to prepare themselves mentally for the rotation. Therefore, in the new environment, the nurses and other healthcare workers will be able to get rid of the monotonous job schedule and boredom. This, in turn, will also help in improving the productivity and potentialities of the healthcare workers.

Considering the significance of conflict resolution, Ahmed *et al.* (2019) emphasised that nursing students must be provided with training in conflict resolution. The study concluded that with the implementation of the educational intervention, it would be possible to improve the knowledge along with the perception of conflict and assertiveness. This, in turn, will have a positive influence on constructive conflict management strategies. Along with this, it will also have a hindering impact on the negative ones. All this could be accomplished by improving the psychomotor skills of the nurses. This will help in handling the conflict effectively and would let the nurses and the other healthcare workers resolve the conflicts by avoiding, accommodating, collaborating, competing and by compromising as per the requirement of the situation. This will not only help in resolving the conflicts between the co-workers or between the management of the nursing home and an employee but also with the patients. Henceforth, it would facilitate the maintenance of a conducive work environment.
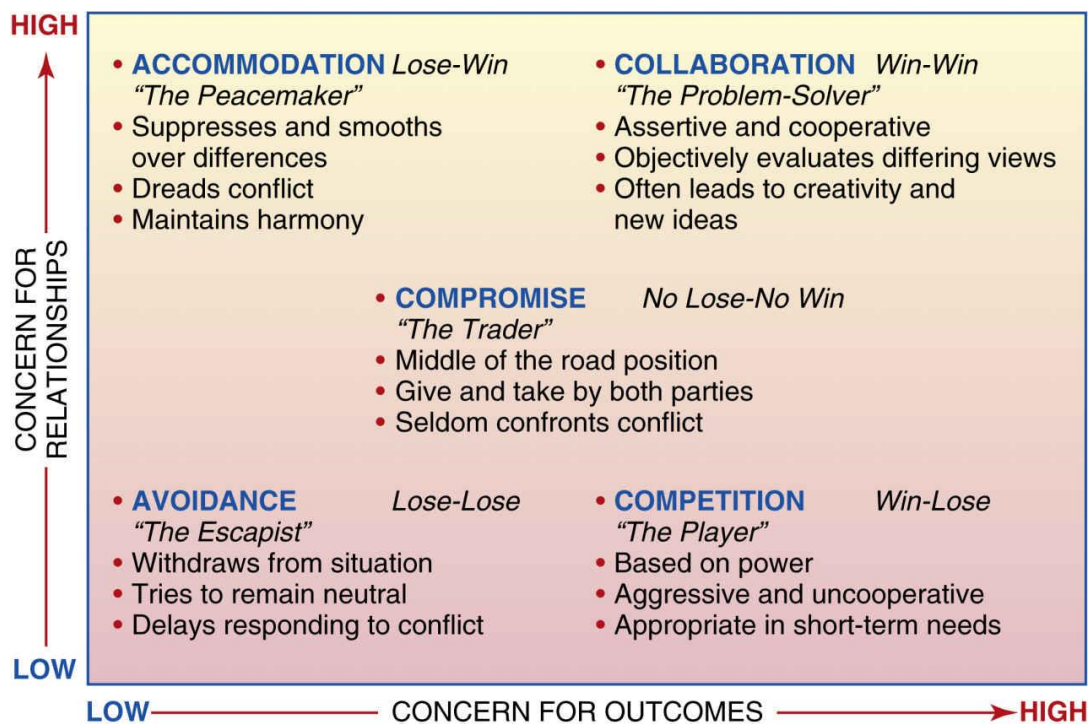
Figure 2: Conflict resolution skill

(Source: Ahmed *et al.,* 2019)

2.7 The concept of mediation services in medical care and the factors required to consider

With an increasing number of conflicts, medical lawsuits, and litigations, a strong emphasis has been started giving on finding effective means to resolute the issues which are hampering the efficient provision of healthcare services. In this context, mediation services have been identified as one of the most beneficial conflict resolution techniques that have already gained strong accreditation in other industries but have not received any similar incorporation in the nursing home settings.

Alraja *et al.* (2019), have articulated that mediation can be regarded as an important tool that can be approved by a governing body and implemented by the leadership teams to control disruptive actions and inappropriate behaviours among management, hospital, clinical staff, executives, governing body members, vendors, patients or patient parties or other external individuals. Therefore, to attain mediation services within a nursing home setting, a neutral mediator can be contracted or hired externally or any internal member can be trained who will play the role of a facilitator by remaining impartial to both the parties involved in a particular conflict. On the other hand, Weng *et al.* (2017), have enunciated that any disruptive action, behaviour, or conflict within a healthcare setting can create an unsafe and unhealthy environment for patients and here, mediation holds a profound impact on the results of the

conflicts. Thus, it can be regarded as an efficient tool that possesses the potential to resolve conflicts in terms of ensuring the safety of patients and improving future professional relationships of all the involved parties.

However, while discussing the concept of mediation in a healthcare setting, Lapointe-Shaw *et al.* (2018), have identified some key factors concerning this entire discourse. According to the authors, mediation allows the engaged parties for developing resolutions in a creative way that might never be possible to achieve through legal processes which cause emotional vulnerabilities and stress. Thus, mediation is a path that offers scope for expressing opinions and emotions through which psychological risks can be eradicated to a significant extent. Another most crucial factor associated with mediation is the possibility to reach finality by producing a fair settlement for both the parties and making them able to put further effort into medical care. Mediation offers strong control to the parties for remaining decisive without leaving their fates on the decisions of juries and through this, the interests of both the parties can be safeguarded and their relationships can be improved. Along with this, mediation is a process that is confidential and it is crucial for resolving disputes in a healthcare setting. Lastly, mediation is a less expensive and faster conflict resolution technique compared to legal procedures. Thus, with mediation reputational and financial damages can be restrained which is extremely essential to offer quality services with greater effectiveness.

2.8 Necessity of implementing mediation services in nursing home settings

Mediation is, thus, an interactive and confidential process that includes an impartial facilitator who assists conflicting members in resolving through expert communication and specific negotiation techniques. Therefore, while analysing its necessity in a nursing home setting, Merlini (2015) has mentioned that a nursing home is a place where different kinds of emotions run through, and here, resolving conflict is a very complicated task. At the same time, if conflicts have not been resolved effectively and quickly, a strong adverse impact can be found on patient care and medical service provision. Therefore, the aforementioned author has stated that mediation is the most suitable technique in this context which is highly adaptable and flexible in both straightforward as well as highly complicated disputes as it remains effective in letting all the parties speak on their behalf equally, allowing them to negotiate to protect their interests and above all facilitate a significant understanding among all when the emotions remain at the highest extent.

However, Zinovieva (2021) has pointed out that the scope of disputes is increasing within a nursing home setting with the advancement of systems and facilities. Therefore, currently advanced medical treatments are expensive and complex and in the times of bearing such treatments or facilitating them, conflicts are more likely to occur among patient parties and medical staff. Another major concern is the increased lifespan of people. Nowadays, people are living longer than usual and the decisions and patterns related to treatment are getting difficult more. In this scenario, not only conflicts can arise between doctors or nurses with patient parties but also among medical and clinical staff regarding decision-making especially about the availability of resources. In such instances, immediate conflict resolution is highly necessary to continue offering medical treatments efficiently so that no such harm gets created to the patients. Therefore, mediation plays a crucial role in these circumstances to offer quick and cost-effective solutions to the disputes and maintain continuance of healthcare activities within nursing homes. Hence to achieve less-costly and more humane solutions for the disputes in the medical care setting with fostering a greater understanding among the members, mediation is an ultimate necessity for the healthcare sector and organisations.

Besides, Baraldi (2015) has posited that resolving conflict requires specific interaction and high negotiation skills to deal with people of diverse interests and opinions. On medical grounds, this aspect of conflict resolution, however, needs more professional expertise to satisfy the interests of inter-professional members as well as to maintain a strong respect for human emotions. Thus, with trained mediators, these requirements can be fulfilled and harmony can be created that may further remain beneficial in fulfilling the objectives of health and medical care services.

2.9 Applying Critical and Transformative theory in nursing homes

According to Afsar and Masood (2018), the features of critical and transformative theory have been applied by the management that help in designing the steps and activities of the nursing homes with clarity and efficacy. The providers of healthcare services such as the nurses and staffs possess the desired competence for developing palliative care that is also referred to as the basic palliative care. The nurses have a quality understanding about the relevant facts and information that are associated with developing the features and steps of palliative care in a well-planned way. The above-mentioned theory and the basic ideas that are portrayed by it helps the nursing homes to establish the basic form of palliative care that is received by the patients with acute disorders. According to Rasku et al. (2021), palliative healthcare service is

provided to the patients as a part of the multidisciplinary team of doctors, healthcare staffs and nurses who conduct their operations in a planned way within the healthcare sphere.

According to Gentry and Dahlin (2020), the nurses play an active role in developing the features of palliative care and they also ensure that the palliative care services are provided to the patients in a well-defined way by adhering to the wide range of healthcare objectives and policies. Palliative care services are specified in a proper way alongside the care services that prolongs life of the individuals. According to Cain et al. (2018), the WHO has defined palliative care as the care services that is effective in the initial part of illness and is continued along with the prolonged care services that are found. Palliative care was developed to be provided to the aged population that lived in the society. The Cancer patients were also provided palliative care by the nurses under the guidance of the healthcare professionals such as the doctors and other specialists. Palliative care services provided by the professional nurses by acquiring professional training has helped to manage the symptoms and has been able to handle the cost effectiveness of the healthcare services that are framed and applied in a systematic way within the nursing home setting.

The critical and transformative theory thus plays an important role for mediation of the nurses' activities within the settings of the nursing home care that was provided to the patients. The nurses have to collaborate with the doctors to ensure that the palliative care is made accessible and is delivered in an appropriate way to the seriously ailing patients and also to the homeless patients. The nurses who work under professional settings have the opportunity to reflect upon life and death of the patients who get access to the quality and highly efficient healthcare services under them.

2.10 Cases of mediation analysis among the patients in nursing homes

The concept of mediation and its features was applied in the nursing home setup to study and analyse the wide range of cases under which the patients were cured. The healthcare survey was conducted in the different nursing home and healthcare settings that existed and could conduct their operations in an efficient way within the society. The features and steps of the Hypothesized model was effectively designed and applied in a well-planned way by the nurses in collaboration with other staffs and the management.
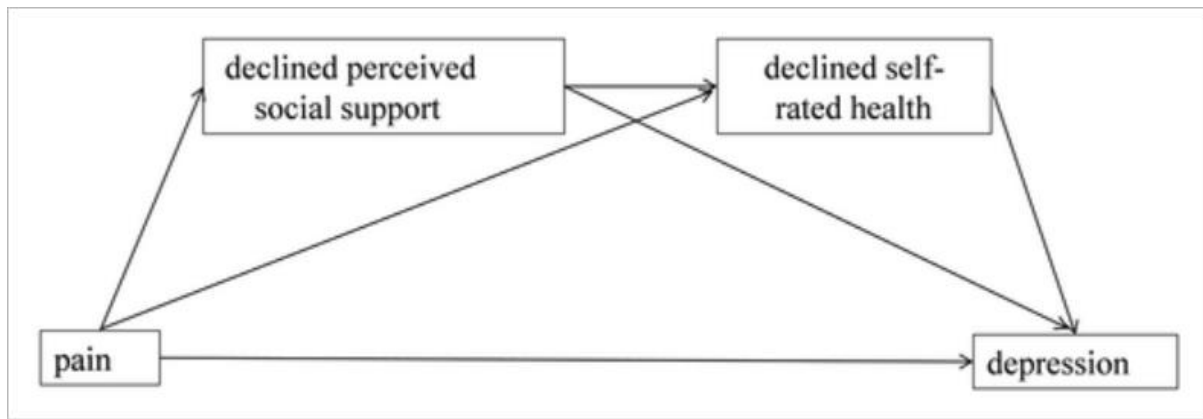
Figure 3: Hypothesized Model of Mediation Analysis

(Source: Chen et al. 2020)

According to Guan et al. (2021), hypothesized model and its steps that are included for mediation analysis of the different patients proved to be significant for enhancing the learning process of the nurses in treating the patients for their disorders. The decline in social support that is perceived and the decline in self rated health conditions are connected with the pain and depression features as per the hypothesized model and its features that is applied in the society with clarity and precision in the nursing home healthcare settings. The negative effect on pain due to depression has been specified and the mechanisms that affect the relation between pain and depression could not be clarified in a perfect way as aligned with the trends and practices being specified by the Hypothesized model with greater effect.

According to Bresnen et al. (2017), mediation analysis would help in differentiating among the different type of patients by studying the features of their cases and providing solutions with greater efficiency and effect within the healthcare settings. The different strategies and steps of mediation analysis that are adopted and practised by the nurses provide them the necessary support to deal with the patients who are suffering from various kinds of disorders. According to Berta et al. (2018), the benefits of mediation analysis could be established in the social sphere by aligning with the strategic elements that prove to be useful to be applied in a well-planned way. For instance, a patient suffering from Cancer would require instant treatment to be provided so that the individual could be cured fully.

Mediation statistical models are adopted and used in the healthcare settings. It helps to make sure that the relation between variables of independent prediction and dependent results of interest could be achieved by aligning with the evaluation effect of the third variables that exist within the provision of services. The specific pattern of statistical analysis is applicable for

assessing the research questions that are based on developing the nursing activities in a proper way within the social sphere. According to Jones et al. (2021), the concept of mediation analysis being defined and applied within the society provides the necessary support to the nurses to reduce the gap that exists between science-based knowledge and the clinical based practices. Such practices are being designed and specified in a basic way within the healthcare sphere. The empirical data is collected to make sure that the mediation of the nursing care services is established in a significant way for ensuring that the nurses could acquire the basic knowledge about dealing with the treatment of the different individual patients.

According to Zhao et al. (2018), the survey patterns were followed in gathering the data and statistical analysis of the data was done to identify the mediation services that was required to be provided to the patients suffering from Cerebral Palsy, Cancer, Heart diseases and other abnormalities. The intervention methods that are needed for the cure of the patient who were suffering from the specific diseases being diagnosed was done after conducting the mediation analysis perfectly within the healthcare sector. The psychosocial variables were studied in a definite and well-planned way to ensure that the mental disorders and the post-natal treatment processes among children could be treated in a planned way. Mediation analysis thus proved to be successful in identifying the most effective treatment steps that are helpful for achieving the beneficial goals related to conducting nursing activities perfectly. Mediation analysis and its steps had proved to be successful in handling the activities of the nurses within the nursing homes where the patients came to get access to the medical and healthcare services.

2.11 Role of Mediation in advanced care planning of provision of end-of-life care services
According to Connolly *et al.* (2021), mediation activities have a major role to play in designing practices for advanced planning and ensure that the end-of-life care services are planned and implemented in a proper way for the patients who are suffering from acute disorders. Mediation and its relevant features can be adapted in a significant way for assessing the conditions of the patients and applying it to great effect that helps to achieve the desired outcomes. General practitioners and the nurses play a crucial role upon designing and implementing the advanced care planning for the patients; however, they encounter problems from the families of the patients for providing the effective treatment in a well-planned way within the healthcare sphere.

The nurses adopted the negotiation approach that is centred upon the interests being developed by the mediators. This ensures that the family members of the patients and the patient get to

know about the mediation activities and take an active interest for applying it for their cure in the nursing home care settings being specified. According to Oelschlägel et al. (2021), the nurses who work in a professional setting has to adapt to the different situations for making sure that the end-of-life palliative care could be designed and provided to the ailing patients in a systematic and planned way. The diagnostic concepts and ideas were adopted and applied to help in treating the patients by incorporating the advanced care planning practices in an effective manner within the nursing homes. The nurses had to observe the patients carefully and had to take the effective decision based on their instincts that helped them to serve and treat the patients in a perfect way.

According to Eggart and Valdés-Stauber (2021), the intuition of the nurses has to be applied in case of planning for designing and providing advanced care services to the different patients who get access to the care services in the nursing healthcare homes. The negotiation-based approach helps to distinguish between the positions and the interests of the particular patient who is being treated in the nursing home care surroundings. The patients were treated in a smooth and successful way by incorporating the planning process through linking of the desired objectives and quality patterns of thinking within the global market. Hara et al. (2021) opined that interests that are referred are mostly connected to a patient's will to get access to the well-designed healthcare services by adhering to the presence of a standardised healthcare process and pattern.
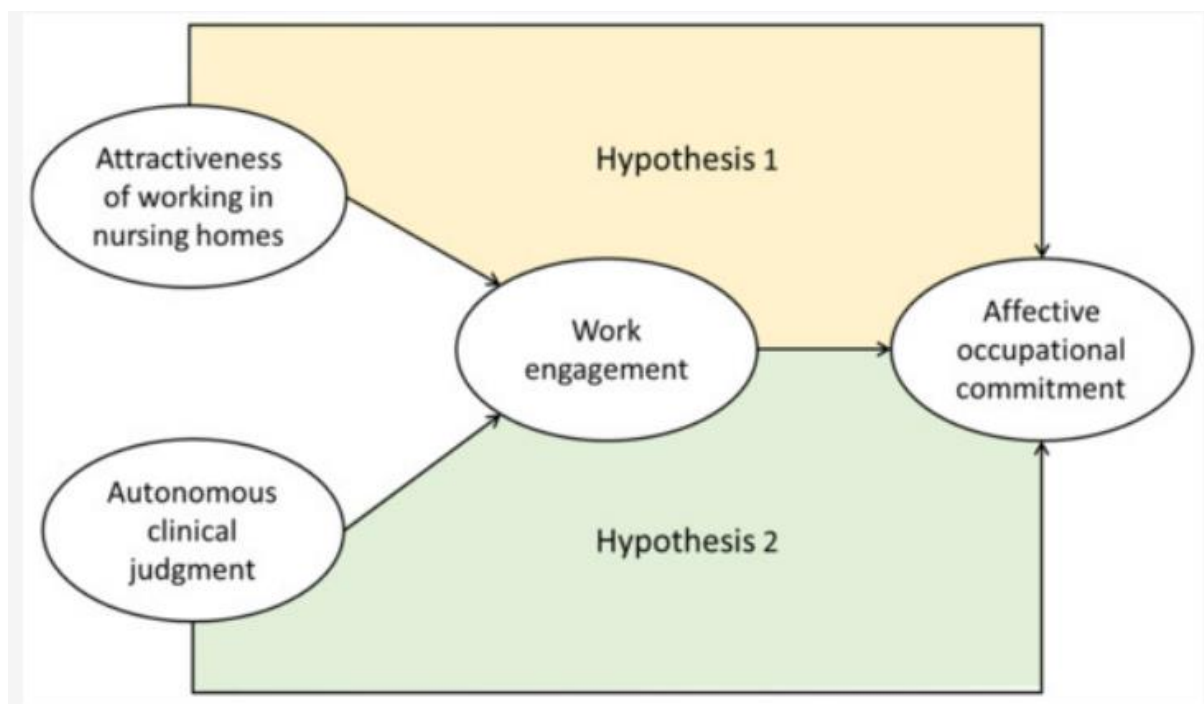
Figure 4: Role of Mediation in developing the activities and services for the nurses

(Source: Hara et al. 2021)

According to Pekaar et al. (2018), the inclusion of the features of the mediation models proved to be effective as it helped the nurses to adapt to the basic process of providing perfectly crafted healthcare services that are productive for the total cure of the patients who are suffering from different disorders in the society. The end-of-life care services are developed by the nurses when the patient does not have the consciousness to decide upon the treatment that is required to be received. This affects the overall process of provision of the healthcare services in a proper way within the nursing homes. The nurses working in the respective nursing homes develop the desired activities and services according to their work involvement and the desire to operate in a planned way for achievement of productive goals. The nurses could adapt to the working conditions and could take the best possible decision that helped to provide quality care services to the patients and ensured their quick recovery. The occupational commitment and its practices would be designed and applied in a smooth way so that the nurses could work in a systematic and planned way within the care home settings.

2.12 Transformative learning acquired by nurses

The nursing profession could be enriched if the nurses are provided the basic training to ensure that they get access to the transformative form of learning. The practices of nursing are focused upon treating and curing the patients totally and the effective mechanism has to be followed for implementing that. The nurses have to get access to the highest quality of training that would guide them to conduct the operations in a beneficial way within the social circle. The transformative learning is based on the effective process and the ideas that prove to be relevant within the healthcare sphere. The nursing home settings have to be adapted in a significant way by which the beneficial plans could be laid down for achievement of the productive goals that are laid down. According to Tsimane and Downing (2020), the outcomes of the concept assessment of transformative learning would help the nursing services to be designed in a planned way so that the goals are achieved in treating the patients in a systematic way.

The three different types of categories could be included under transformative learning such as cognitive and affective perspective that provides the impetus to gain access to perfect learning steps and activities that are relevant. According to Pepin et al. (2017), the process of transformative learning could be accessed by incorporating three genuine phases namely the awareness that is acquired through self-belief, the interactive phase and by applying the

metacognitive analysis skills that are helpful to possess a quality impact upon the execution of the well-defined tasks being shaped up in the nursing home setting. The theoretical concepts associated with transformative learning could be specified and assessed in a logical way for making sure that the nurses can play their roles to greater effect and efficiency.

Pepin et al. (2017) opined that the effective and quality processes of transformation could be adapted and included within transformative learning so that the efficient goals could be achieved perfectly and with precision. Transformative learning would guide the professional nurses to gain access to the effective knowledgeable methods and steps that prove to be productive and efficient in achievement of the desirable goals that have been laid down. The transformation that is included within the learning processes would make the nurses learn the processes of carrying out the planning and executing operations in a smooth way. The nurses learn to bring about transformations within the society by designing and adapting to the quality and efficient strategies that would prove to be significant in the social sphere.

2.13 Literature gap

The existing literature had provided an ample amount of information about the diverse types of conflicts that could take place in the nursing homes between the employees, management and the employees or among the nursing home staff and patients with their family members. However, negligible information is available about the medications that are available in the nursing homes that could aid in the resolution of the conflicts.

Moreover, the researcher also could have focused upon exploring and studying more strategies that would prove to be significant and useful in managing the conflicts that arise in the nursing home settings and provide the support in solving them fully. The research also could have discussed in a detailed way about the vital training procedures and steps that would help the nurse to work in a flawless way. It would also ensure that the overall activities could be executed in a smooth and well-planned way within the nursing homes.

2.14 Summary

The literature review will cover the significant elements that were incorporated within the nursing home care settings for making sure that the social conflict model has been applied in a smooth and well-planned way. The conflicts among the nurses while providing the services could be explained in a logical way by applying the basic norms and rules. The nursing homes associated the different features and steps that helped them to resolve the conflicts that existed within the functioning of the well-defined services that had been planned. The patients and the

service providers play an important role in conflicts. The behavioural traits shown by the patient party people and the nurses help to address the issues of conflict that arise in the nursing home care settings in a smooth way by maintaining clarity and precision.

The long-term nursing care and the conflicts that could be developed during that period had an influence upon the working of the nurses in the nursing home setup that was existing in the society. According to Iriarte-Roteta *et al.* (2020), specification of mediation services and activities that were included under the nursing home settings could be adapted and applied in a perfect way to ensure that the process by which the different patients were handled could be observed. The resolution of the conflicts within the nursing homes could be developed and accomplished in a significant way by adhering to the basic standards and healthcare policies being specified. The leadership roles and the initiatives taken up by the nurses could prove to be effective in managing the overall services being shaped and provided to the patients under the nursing home care settings. The mediation services also need to be designed in a properly planned way so that the productive and efficient goals could be adapted perfectly.

The application of the traits of the job-demands theory helped the nurses to get accustomed to the work surroundings and gather the encouragement from the colleagues and the senior healthcare staffs for ensuring that the advanced care planning was designed in a perfect way by adhering to the basic procedures and objectives. The basic prospects of the theories would prove to be effective and successful in making sure that the adaptative features are incorporated to treat the patients in an inclusive way.

Chapter 3: Research Methodology

3.1 Introduction

Research methodology is a vital part of every research as it helps in recognising the methods and strategies that are used for meeting the purpose of the study. The use of proper methodology directs the researcher in choosing suitable strategies for conducting data findings and analysis smoothly. This chapter has discussed the appropriate philosophy, design, approach, strategy and sampling method for conducting secondary data collection and analysis properly. Here, ways of collecting secondary data for presenting a critical review on mediation services in nursing home settings are discussed by highlighting the ethical considerations and timeline of the study.

Research philosophy	Interpretivism
Research approach	Inductive
Research design	Explanatory
Data collection process	The secondary data collection process
Data analysis process	Critical review using the thematic analysis method
Sampling strategy	Non-probability sampling
Sources for data collection	Research articles, research journals, books, online magazines and government websites

Table 1: Outline of research

(Source: Created by learner)

3.2 Research philosophy

The use of philosophy directs the researcher in analysing the assumptions or beliefs related to the ways by which a phenomenon should be collected, gathered and applied. It allows in gathering data through observation process and developing direction for meeting the objectives of the study. From the findings of Žukauskas *et al.* (2018), it is figured out that commonly there are three types of philosophies namely positivism, interpretivism, and realism. However, the current research aims at presenting a critical review where the use of qualitative data is suitable. Hence, interpretivism philosophy has been applied for analysing the belief of gathering qualitative data related to mediation services used in the nursing home settings. The use of interpretivism philosophy is selected because it has the power of interpreting qualitative data that is required for performing secondary research. This has made it easier is researching

various mediation services used in the nursing setting which is the aim of the research. However, the limitation involved within this philosophy is it discourages considering personal perspectives in analysing the phenomenon of research.

3.3 Research approach

The research approach is featured as a way of planning research activities for managing data collection in a synchronised order. As opined by Alase (2017), tactics of research approach allow in making a path of data collection quite easier by providing a detailed approach to the researcher. According to recent studies of research methods, three categories of approaches exhibited are inductive, deductive and abductive. As the research has adopted interpretivism philosophy, the inductive approach is suitable for starting with particular observations and measures on mediation services for resolving conflicts in nursing care settings. Additionally, the application of the inductive approach has allowed in detecting the patterns of research and formulate hypotheses by developing conclusions for analysing the best mediation services by performing a critical review. However, the inductive approach cannot be used for proving anything which is the major limitation as it focuses on developing a generalised conclusion.

3.4 Research design

Research design aims at providing a plan of study which permits smooth sailing of different research requirements, thereby making the research as effective as possible yielding maximum data using the minimal expenditure of time and money. The main characteristics of using research design are it utilises a logical approach using effective research tactics. Different designs which are mostly used are conclusive, exploratory, and explanatory designs. As the current paper is associated with a critical review of different types of mediation services, the use of explanatory research design is used for analysing the benefits and challenges of mediation services used by the mediator for resolving conflicts in healthcare settings. As pointed by Seidel and Watson (2020), the explanatory design ensures gathering data with a detailed and evidential approach which helps in analysing data by providing a closer view. However, the researcher has kept in mind the challenges of explanatory design. It can create difficulties in developing a strong conclusion which is essential for presenting every fact following suitable explanations and format.

3.5 Data collection method

In contemporary research studies, data collection is a vital part that includes maximum information in the entire research paper. Two categories of data collection are present namely,

primary and secondary methods. The current research topic is quite wide as it seeks in evaluating possible mediation services used in different nursing home settings by reviewing the types of conflicts, secondary research is conducted to present a thorough analysis using critical explanations. In this process, qualitative tools are used for presenting qualitative data collection by preparing themes based on the understanding of the topic and objectives. Secondary sources such as research articles, journals, books, websites and online magazines are reviewed to present findings in the research (Martins *et al*., 2018). This process has helped in using a flexible approach using authentic sources to figure out the ways of conflict resolutions and possible mediation techniques for nursing homes. However, the limitation of secondary data collection is data and results can be vague if decisions are not taken based on the findings of secondary sources.

3.6 Sampling size and Sampling technique

Sampling strategy helps in inferring information of study and assessing strategy for selecting research samples. Probability and non-probability are two forms of sampling strategy and this study has selected non-probability sampling as the study deals with qualitative data collection. Based on the statement of Etikan and Bala (2017), a non-probability sampling strategy provides an unbiased presentation of data and helps in developing an initial understanding of research findings. This research has considered both inclusion and exclusion elements while selecting the sample. Data published from the year 2017 and above, peer-reviewed journals, authentic websites, governmental reports and articles related to the topic are considered as inclusion criteria of the research. Additionally, published sources having journal names and authors are selected for presenting the critical review. On contrary, the contradictory concepts are excluded from the sampling size of the study.

3.7 Data analysis method

The use of data analysis is important in research because it enables in finding out the value of the collected data by presenting a detailed analysis. In this research, data analysis is conducted for performing the validating the secondary data that has been collected through the qualitative process. Thematic analysis has been adopted for presenting a critical review of the mediation services used in nursing homes for settling down the conflicts. As commented by Vaismoradi and Snelgrove (2019), thematic analysis helps in examining the qualitative data based on the themes. Therefore, this method is applied here for analysing the data from the existing sources for offering a clear understanding of mediation services such as court-annexed mediation, private mediation, community mediation for meeting the needs of disputing arguments in the

context of nursing home settings. Moreover, critical review using thematic analysis has been done by analysing the abstract, findings, conclusions and literature review of the collected sources. However, the researcher has study about the limitation of thematic analysis which shows flexibility given in this method has chances of bringing inconsistency and coherence during theme development.

3.8 Ethical consideration

Ethics are a crucial element of the research paper as it helps in analysing the value of data by checking if the paper has followed the required legislations during data collection. However, if the paper fails in fulfilling ethical criteria, the research paper can be cancelled by a higher authority. Here, guidelines of *the General Data Protection Act 2018* (GDPR) have been followed which emphasises the ways of handling personal information while using it for data collection purposes (gov.uk, 2021). Besides, maintaining transparency is important for increasing the value of content. This ethical principle has helped the researcher in developing an analysis of the findings using a unique and new style that is completely free from plagiarism.

3.9 Research limitation

Limitations found in research are having the power to hamper the quality of content. A few limitations that are recognised in this paper are the shortage of funds and time constraints. Researcher had a low budget which has stopped accessing the highly cost journals and other sources which requires taking subscriptions with money. On another hand, time considered for a few activities were short which has restrained in review few sources for critical analysis. Hence, these two limitations have affected the quality of research to some extent.

3.10 Summary

This section has helped in understanding the use of different research methods which are used to conduct secondary research and present a critical review on mediation services. Here, an outline of research methods is discussed without which the next chapter cannot be performed adequately. The use of interpretivism philosophy, inductive approach and explanatory designs are explained by critically reviewing each method to have proper understanding. The guidelines of ethical consideration and analysis of non-probability sampling are presented that has increased the value of research. Finally, from this section, the timeline that has been followed for completing research is provided in a tabulated form that shows the research needs nine months to complete.

Chapter 4: Findings and Analysis

4.1 Findings from the Secondary Sources

Case-laws and the relation with Mediation in the healthcare

In the last few decades, it has been observed that disputes in health and social care have taken a new turn. Mediation has been considered as one of the effective means of resolution that is being used by most of the solicitors. In the clinical sector, disputes have been found to occur either due to the negligence of the staff or due to the misunderstanding of the caregivers. In one of the disputes, it was evident that the claimant has sued the NHS Trust for negligence due to which the brother of the claimant has passed away. The dispute was shown that the medical records have been altered that led to the death of the brother. In the healthcare application, Mediation Act 2017 has been applied to resolve most of the disputes and ensure that a better framework is created for the prevention of the health of the users. The idea of mediation has been evoked from the formation of the Contract law. In health and social care, as soon as a patient is admitted to the hospital or in a care home, a contract is being formed between the parties and is expected to be carried out through good faith and duty of care. The dispute of *Ryan v Walls Construction Limited [2015]* has been one of the evidence of the Mediation Act 2017. The issue had been that Mr Ryan had met with an accident in two consecutive years such as 2005 and 2006 (algoodbody, 2021). The Court of Appeal gave the decision that mediation is considered as one of the greatest prospects of success. In the process of mediation, the element can appear at any stage but if it is in the usual course. Often in a healthcare dispute, due to medical negligence, the actions that occur do state that the patients do look for only assurance or explanation with an apology. Two procedures can be followed in the process of mediation such as Periodic Payment Order and Under settling a claim. In the year 2014, NHS Resolution as evidenced ran one of the pilot schemes as a consequence of some medical negligence claims (Galinha *et al*., 2021).

The patients for the organizations are the customers whose interests must be protected and under any circumstances, the needs must be met. It is the sole responsibility of the caregivers to give their full attention to the patients during the time they are under the care and also ensure that the best care is fostered. In the case-law of *O'Leary v Health Service Executive*, the High Court had rejected the appeal of the plaintiff (Ohrnberge *et al.,* 2017). The claim of medical negligence was levied against the doctor for treatment of the kidney and bladder. It was held that the plaintiff had not given any statement regarding any suffering or unnecessary pain due

to the act as put up by the defendant. In the dispute of **McManus v Duffy**, the Court has pointed that there was a need for mediation. NHS as one of the reputed and largest healthcare organization in the UK have stated that they give the ground for the patients and the public to have their voices. Through the process of mediation, three generic and important outcomes are being obtained such as confidential environment, voluntary attitude and person-centred approach. In one of the case-laws *Gregor Fisken Ltd v Carl [2021] EWCA Civ 792 (28 May 2021*) and *Emojevbe v Secretary of State for Transport [2017] EWCA Civ 934*, it has been found that the Court has encouraged to mediate. Mediation is considered as one of the effective processes where the parties do not get into a serious conflict but a third party comes to the fore to settle the dispute (Zhu *et al.,* 2019)

In the UK with the build-up of so many organizations, it has been found that health and social care do have to perform their duties keeping strict liability in the fore. Contract law is meant and developed for every sector to keep the business look fair and ethical in norms. Contract law sets forth some of the terms and conditions that are to be followed. In healthcare, it is being found that patients as soon as admitted to the hospital do enter into a contract where the offer of services is made by the organization and it is being accepted by the patients. Thus, with the signing of the documents, legal considerations and intentions are both being found. Social care and health care are one sector that prefers to provide the best services to the organization.

From the case-law of *Hurst v Leeming [2001] EWHC 1051 (Ch), [2003*], it is being evident that if one party do make an offer for mediation and the other party do not accept it, the party rejecting it will have to provide a reason for it or will be penalized in the Court and with pay. Clinical negligence is one of the crucial issues where two of the preliminary grounds are determined in the first case such as Good Faith and Duty of Care. Using the two paradigms, all healthcare professionals are being expected to act in a true sense and deliver the best result to the patients. Meditation leads to a solution that is cost-effective like that of the Alternative Dispute Resolution. In healthcare, Civil Procedure Rules - CPR 1.4(2)(e) has made it mandatory for the Courts to encourage the parties to manage any dispute through ADR. If the parties do fail to engage in the process of ADR then the Court can charge a financial penalty as has occurred in the case of *Halsey v Milton Keynes General NHS Trust 2004 EWCA Civ 576.* Mediation is called a kind of or form of ADR that is being mostly applied in the cases of clinical negligence. In most cases, it has been evident that mediation is one of the effective procedures.

Contract Law and Mediation

Mediation has been considered as one of the factors that help the dispute to take place but in a convenient way. Today, the legal system has been witnessing many changes and many issues but it has been found that there are some ways or the other through which the decisions are being carried out. Contract law is considered one of the important legal agreements that bind the parties to respect and follow the terms and conditions. It has been evaluated that with the Contract, the legal essence is promoted (Rusá, 2018). Legally, it has been found that often there are disputes but it is the responsibility of the solicitors or the Court to find out a relevant solution for it. It has been identified that breach of contract has taken a crucial shape where it is being pointed that mediation is now accepted as one of the true senses where decisions can be taken. Mediation occurs through a process where it is being determined that stepwise actions are being taken. Parties may themselves appoint the mediator or through an institution. It is being observed that with the mediation process, it is being determined that parties do negotiate but with a certain solution that looks constructive as well as effective in appearance.

In contract law, commercial disputes are common. It is being seen that commercial disputes do call for mediators so that the business reputation is not impacted under any circumstances. In the current era, complications are gaining importance where settling disputes have become common. It is being evaluated that with the notion of mediation, it is being observed that parties do not get into personal conflict and cost-effective solutions are being gained. A format is followed for the fulfilment of the mediation purpose. Courts do support the process of mediation and it has been found that with the failure to mediate, it has been found that costs are taken. Thus, it is being evaluated that mediation today has taken a vital shape and is being accepted by every party. Therefore, parties failing to respond to mediation are subject to penalties as well. Mediation in the UK has been considered as one of the accepted forms of the ADR. It is being found that with the right decisions, parties can seek a resolution that will set an example for other companies as well. In medical cases, the contract is being formed between the hospital and the patients where the disputes are being resolved through the presence of mediation. In the contemporary business environment, it is being seen that companies are going for mediation to avoid large size conflicts that can hamper the business reputation to a great extent. It is also being evaluated that mediation today has acquired a major shape in letting the parties understand what the actual situation is and how it can be solved with adequate means.

In the process of mediation, it is being observed that parties do refer to having a mode of negotiation that takes place through effective negotiation. In the process of mediation, it is being visualized that parties do use the means of communication to let the parties know of the requirements. All participants do have the rights to understand the current requirement and accordingly make the decision. It is up to the parties to choose the mediator and accordingly make the decisions. From one of the findings conducted by the NHS Pilot Scheme, it has been found that there are about 90% successful mediation cases. In the healthcare sector, it is being evidenced that companies do go forward for settling the dispute through negotiation so that the business reputation is not at stake. In the contemporary business environment, it is being found that organizations claim the settlements to be made as soon as possible. It has been found that the majority of the cases that are related to medical negligence and personal injury, it is being settled outside the court. Without the conduction of a trial, it is being evaluated that a case is being discussed (Ohrnberger *et al*., 2017). NHS has taken an initiative where it has been found that contracts are being extended with the application of the Centre for Effective Dispute Resolution (CEDR). Every case requires both the parties to have their voice to be heard and as a consequence, it is being evaluated that claimant can effectively raise their disputes. For the occurrence of the mediation, it is not stringent or fixed as to when it will occur or the duration of the mediation. It is the decision of the parties to disclose the documents to be enclosed and the kind of documents to be enclosed. The concessions that are made during the time of the mediation, the parties or the litigants later cannot make any declaration.

> " *"Parties must be free to discuss candidly all options for settlement and 'think the unthinkable' without fearing that their words will be used against them in any subsequent litigation".*

Figure: Mediation settlements disputes

(Source: Ohrnberger *et al.,* 2017)

From the ***E (A Child) (Mediation Privilege), Re [2020] EWHC 3379*** (Fam), it is being evaluated that parties cannot later make any changes to the comments. In the UK, NHS has been recognized as one of the trusted organizations over the years. Medical negligence claims are always resolved through the use of mediation. According to the report provided by NHS Resolution, it has been said that patients, families and claimants do have an opportunity to raise their concerns and also have their own opinions. It was a chance for giving the patients a scope

to have a face-to-face explanation. In the process of litigation, it is being observed that patients and families do get a voice to raise. Taking into consideration of the mediation cases, it is being discovered that 74% of the cases are settled on the day the mediation takes place. Additionally, there is an exception that is being made that within 28 days even it is being found that settlements can take place. Day by day, in the healthcare sector, it is being found from the NHS Resolution that mediation cases are increasing. From the legal speculation, it is being evident that from the period of 2017-2018, around 89 cases are dealing with mediation cases. The cases have been increasing day by day which shows that legal claims are being settled outside the Court. Often in the business situation, most of the cases when lodged in the Court are found to involve costs but with mediation, the cost will be increasing. However, according to the statement that is being made by Ian Cohen as the head of the Personal Injury, only small cases are being found to be dealing with the Alternative Dispute Resolution. From the opinion of Julienne Vernon as the Head of Dispute Resolution, Mediation has allowed and paved the path for the parties to be at the heart of the claim. In the UK or any other country, the motion of the resolution of a case is lengthy for which most of the parties do claim to have a cost-effective and speedy recovery of the disputes.

Significance of Bolam Test and Bolitho Test

Clinical negligence has been considered as one of the crucial issues where it has been found that health and social care has been developing. In health and social care, some preliminary requirements are:

➢ Duty of Care
➢ Standard of Care (Zhu *et al.,* 2019)

In the evaluation and practice of the Clinical Negligence, it is being fostered that duty of care has been a must. Duty of Care does indicate that the hospital should take care of the practices that are given to the users. From the case-law of ***Bolam v Friern Hospital Management Committee [1957] 1 WLR 582***, the Bolam Test has been brought to the fore. In the case law, the patient had been suffering from depression and voluntarily was submitted to the hospital. The patient was admitted to the hospital to have electroconvulsive therapy (ECT). The ECT had been delivered without any kind of muscle relaxant drug and the patient was unrestrained. The only nursing staff was there to assist the patient. However, according to the defendant, it has been said that there was no need for the risks to be explained to the patient if specifically, not asked for. It was stated that the doctor was not to be held guilty of negligence. When a

practitioner acts in accordance to that of the conformity has been found in Marshall v Lindsey County Council. In the case law of *Maynard v West Midlands Regional Health Authority*, it has proposed that the court cannot choose between the two schools of thought.

Over the past few years, it has been found that doctors did have enjoyed the protection in law with the application of the Bolam Test. The test however got qualified in the case-law of *Bolitho v City and Hackney Health Authority 1993.* In the application of mediation, over the years two of the Test have gained importance such as *Bolam Test and the Bolitho Test.* Mediation has in recent years have gained significance where issues have got resolved within a few weeks.

In the date of 1997, the Bolitho Test got started with the *Bolitho v City and Hackney Health Authority.* It was regarding treatment if the sick child was admitted to the hospital. The negligence has been evident when none of the doctors has responded to the call made by the night sister. It was so found and admitted that if a doctor had arrived and had intubated the child then the child would have been saved from the danger. The child as a result has suffered from cardiac arrest and brain damage. From the application of the Bolitho case, it was thus detected that a doctor could be held liable for negligence in case of diagnosis and also treatment. The application of both the Bolitho and the Bolam test has been evident in the case-law of Muller v King's College Hospital NHS Foundation Trust. In respect to the alleged clinical negligence being evident, two preliminary grounds have to be tested such as the

➢ a medical professional has acted by the practice that has been accepted by all
➢ the practice has if survived with the Bolitho judicial or not

From the case-law of *Dyson v Heart of England NHS Trust 2017*, the question the negligence has raised concern. Medical negligence can lead to the death of the patient where consideration is taken as to whether a duty of care has been followed or not. At the same time, it has been overseen that negligence was done unintentionally then the claims are not considered to be faulty or breach of contract. In healthcare, the contract as has been mentioned earlier is formed between the parties and when not followed do lead to a breach of contract. 2000 years ago, it was researched and stated that doctors would not disclose any information regarding the patients to them. This was considered as Hippocratic Corpus since patients do have the right to know of the issue and also their consent should be taken before proceeding with any information. In respect to informed consent, it has been found that *Montgomery v Lanarkshire Health Board 2015* case law demonstrated that permission should be taken from the patient.

This case law has marked a point where it has rejected the Bolam Test and stated that duty of care should be aligned with the risks that are associated with the material risk. From the case-law of *ABC v St George's & Ors 2017 and Shaw v Kovac & Ors 2017*, it has been found that patients are the decision-maker and therefore their consent should be taken. Medical negligence is crucial as the true service of the healthcare organizations are not met. In recent years, it has been found that organizations with the mutual consent of the patients can proceed with various decisions that will fulfil the purpose.

4.2 Analysis

Mediation is the process of addressing the concerns, issues, and grievances as well as resolving the conflict amongst the families of the residents residing in the nursing home, the residents themselves, and the aged care providers to reach a consensus and agreement. As per the observations of (), mediation also involves the compassionate, dedicated, skilled, and healthcare professionals who conflict to explore the available options and reach agreements. Therefore, the process of mediation is confidential in nature and is designed to assist the people involved to communicate effectively and also focus on what is important to prioritise and consider for both the parties to facilitate workable agreements. However, it is to be noted that mediation doesn't directly participate in the decision-making rather leaves the decisions totally to the discretion of the involved parties. The mediator acts as a catalyst between the opposing and conflicting interests in an endeavour to initiate agreements amongst the concerned members. Most of the concerns and disputes arise between the care providers, the residents, and their families regarding the issues like living arrangements, healthcare arrangements, procurements of the special needs, miscommunication, conflict within the patients' family members, and improper and deteriorating standards of care ().

However, the importance of the mediation lies in the fact that resolving the conflicts is essential for the residents as well as for the staff concerned with delivering the services to retain peace and harmony and to foster the assurance that there are no detrimental repercussions on the health of the patient concerned. Even the effectiveness of mediation is demonstrated through the fact that it allows the plaintiff to express their grievances, and concerns and feel heard during the whole process. In addition to this, mediation comes across to be a cost-effective option rather than filing the lawsuit against the nursing home along with the aforementioned advantages. This is because the mediator tries to ease out the mounting tension between the residents and the nursing home's authorities by communicating with the parties underpinned with conflict-resolution measures to accentuate the communication between the parties ().

Nurses play or rather hold the potentiality to influence the mediation process through their decision-making skills by both considering the issues and adhering to the ethical issues. For instance, they could engage in bioethics mediation which is an enhanced and more improved and updated process in facilitating mediation wherein integration of interpersonal communications, conflict management, mediative, ethical principles, and dispute resolution skills are done to deal and cater to the dilemmas in the healthcare settings. Nurses could effectively participate in the formal bioethics mediation owing to the skills and knowledge they possess inherently due to the job roles like kindness, empathy, understanding, resilience, patience, and sensitiveness to handle the patient's concerns and grievances.

4.3 Discussion

As an important tool in the medical field, mediation has, to a great extent, been ignored and overlooked. The power it has in resolving common disputes in hospitals and nursing homes is not recognized efficiently. In most cases, residents or patients are more inclined towards filing a complaint against the hospital or nursing home through the guidelines that are provided to them (Daskalopoulou et al., 2019). When they find this procedure to be insufficient, they then decide to file for arbitration. It is then when the need for meditation rises, as the first and foremost step before arbitration so that complex emotional issues and problems can be resolved easily. A patient qualifies for additional care and helps in a hospital or nursing home only when they lack smooth functionality, based on their performance in performing the five basic tasks of everyday life (ADLs) which include: Bathing, Dressing, Toileting, Transferring, and lastly, eating. According to research conducted by the Centres for Disease Control (CDC), hospitals and nursing homes provide their services and care to only the most deficient patients in each of these five ADL categories. The patients who come on a short-term basis, especially the ones receiving post-surgery transitional rehabilitation and care, join their hands together with the workforce of the nursing home for coming up with ideas of efficient care plans based on their ultimate aim of improving their ADLs as soon as possible. The patients who come for a longer period, on the other hand, try their best to improve their ADLs as well but the chances of them returning to their homes are considerably low. It is more often in this generation, with the increase in the number of long-term patients, that the families who have a close relative in a nursing home may likely end up having disputes with the nursing home over a variety of issues like billing, payments, services provided, financial decisions or related to problems of neglect. In this scenario, mediation can act as a lifesaver and a great option besides filing a lawsuit against the hospital or care home. In most cases, mediation is voluntary, decided upon by both

parties (Verrept and Coune, 2016). But in some rarer occasions, a court may intervene and order it and in some nursing homes, meditation is mentioned in the nursing home contract itself. When it comes to choosing an objective mediator, it depends upon the parties to choose an individual but preferably someone who has expertise in this field. Meditation allows both parties to become honest with each other because the whole procedure is confidential. This helps them in ensuring that whatever they say or reveal will not be used against them later during the trial in case they are not successful in settling even through mediation. The process of meditation proves to be very helpful, especially to the plaintiff since it gives them the chance to share their concerns and feel like they are being heard. Litigation, on the other hand, is a process that is not as beneficial as it makes the parties adversaries and often cuts off all communication between the parties (Corraini et al., 2017). Through mediation, both the parties put their heads together to come up with solutions to their problems and the role of the mediator is nothing but to motivate this communication and use their special conflict resolution techniques to solve any unforeseen clashes between the two parties. It is the responsibility of the mediator to provide both parties with information that will help them in becoming better informed and more equipped with the details of their case. The mediator can help the parties by pointing out certain loopholes or downsides in their case which they had not noticed before. Thus it can be safely said that the role of the mediator is that of a facilitator between both parties (Fiore-Gartland and Neff, 2015). In case both the parties agree upon a decision, it is the responsibility of the mediator to draw up a legal bond or contract between the parties and make them aware of the terms of the agreement.

As discussed above, the litigation process can be very fatiguing and disturbing for both parties because of the potential complexities of issues and the potential legal rights that are implicated. During such situations, the best alternative is that long-term care mediation is directed to mediators who have experience, especially the ones who have experience in basic mediation training as well as advanced training in elder mediation. The role of these training objectives is that it ensures that efficient policies, procedures, and roles have been established by either the experienced individual or by the group of meditators working in an office. Mediation training must offer a chance to mediators to recognize roles of staff for example the administration, the role of deputy administrator, the role of head of nursing, so on and so forth. The training must offer knowledge about various long-term settings such as residential settings including nursing homes, assisted living, group homes, senior housing, and many more. Training teaches mediators how to tackle common conflicts that they may encounter in the

long-term care area. The majority of the teaching should be based on staffing, individual care, food, medical problems, and the rights of the residents (Qureshi et al., 2021). It is the responsibility of the mediator to recognize and understand that long-term care deals with issues that originate from ethical dimensions, including issues of personal autonomy versus collective interest. Training must be efficient enough to prepare mediators for the hurdles that they will be facing during resolving conflicts in the long-term arena. It is their job to understand the challenges that come with convening mediation. Providing skills training is of extreme importance in long-term mediation to make sure that the skills the mediator possess are unique. Constant practices and role-plays must be carried out so that they master their skills in both pre-conference and conference stages of mediation. Training should teach mediators to work in harmony with their staff and stakeholders to ensure their participation and overcome and resistance, thereby encouraging an efficient approach to solving concerns.

Mediation can therefore be defined as a process through which conflicts can be resolved with the help of a neutral but trained third party who shoulders the responsibility of ensuring smooth communication between both parties. The main aim of mediation is to encourage both parties to come together and find their ways and solutions. When it comes to meditation, even elders who do not have much capacity can be included in the process. With the use of mediation in long-term care in nursing homes, human and financial costs can be reduced to a great extent (Khan et al., 2021). It offers new ways of communication to staff, patients, their families, and the authorities to modify their pattern of communication. In this way, they can avoid litigation and minimize stress. There exist several mediation models but the most effective model can be regarded as 'Transformative mediation'. It is a process that is not restricted to mere problem-solving. Mediators in this model make constant efforts to improve communication between the parties and how they relate to each other. In this scenario, even if the issue cannot be resolved, both the parties may experience growth especially in their feelings of fear and uncertainty to a feeling of confidence and empowerment. It is widely seen that meditators do not generally enforce laws and regulations during the process of mediation. They rather help parties in making their own decisions and demands. Meditators can be regarded as outsiders who not only listen attentively but also provide their input about the situation in an efficient manner.

Chapter 5: Conclusion and Recommendation

5.1 Conclusion

Even though most of the administration and members of the nursing home staff are more or less not familiar with mediation as a process, its goals, and results, they sure are aware of the need to resolve conflicts that arise during the provision of care. It should be noted that acute attention should not only be given to the medical requirements and needs of the patient but also their global well-being.

Bringing up such topics of discussion shows that health care is not merely restricted to the health of the patient but relates to much broader issues of everyday life, involving not only the patient in question but also his/her family and the nursing home altogether. The involvement of the mediator/s as a neutral third party also gives a good opportunity for understanding conflicts and intentions which prove to be helpful for the overall goal of care (Yadav and Lewis, 2021). Since long-term care is continual, solving clashes and conflicts between parties not only strengthens the relationship shared between the caregiver and the receiver, but also with his/her family, friends, other residents as well. Both the trends in demography and growth in long-term care predict the increase in the importance of meditation in the future. An increase in life expectancy over the years will increase the number of patients in Long-term care facilities within nursing homes and hospitals. Although it is the responsibility of both parties to avoid conflicts, even during times of crisis, mediation can offer a great tool in increasing the morale of the staff and patients and reduce the role of legal actions in resolving problems.

After receiving all the data from different selected data sources, it has been identified that the process of healthcare management does not only involves activities that are related to the identification of the health issues and providing the required support to the patients, but it is also to ensure that the issues that they are facing or their family members are facing while availing the medical services are solved. Disputes will be there and it is essential to ensure that those are effectively mitigated. However, it has even been found out that the Mediation Act of 2017 has been applied in most cases. Additionally, it can even be said that mediation plays a vital role in maintaining the work process in healthcare centres. Different cases have been observed where it has been assessed that while carrying out any healthcare centres, there has been the occurrence of different stances, where legal issues take place. These incidents push not only the patient parties but also the employees who are interrelated with the process in having low morale.

The use of the right mediating techniques plays an essential role in understanding the needs of both the parties and in resolving the conflict in the most effective manner, ensuring that both parties are benefited from the consequences of negotiation. Furthermore, to conduct, control, and complete this process, there needs to be a solicitor or mediator, who will be responsible for bringing the case to the court and in finding out the right and effective solutions to the issues that are faced by them. The process of mediation is systematic and follows stepwise solutions to the identified issues, faced by both the patient party and the healthcare centre. Business reputation and its sustainment is another reason for which mediation takes place. It has been found out that NHS Pilot Scheme, stood out to be an effective technique that this healthcare centre has made use of in order to settle the disputes that were there in their history. Additionally, it can also be concluded that at present, the most growing factor that is creating disputes in the workplace is negligence from the side of the health care providers. For overcoming that, it is becoming essential for healthcare managers to understand the quality standards they want to follow and to recruit the employees as per that standard.

There are different tests like the Bolam Test and Bolitho Test, which are applied by healthcare professionals to maintain the quality standards of their activities and also to ensure that disputes that have taken place are mitigated within a short span. Both these examination process focus on understanding the reasons for which the dispute has taken place, which is further performed based on maintaining some criteria. However, it has been evaluated that the process of settling disputes is not well known or supported by the people. Besides, the act of mediation occurs when the patient or healthcare centre feel that the performed process of issue mitigation is insufficient. Issues related to billing, payments, services provided, financial decisions or related problems of neglect are some of the evident cases, which have been found in the case of long-term admitted patients. Here, the mediation process can act as a cushion for the healthcare centres and the people who are related to the process.

Furthermore, it can also be stated that litigation is not that effective. In the process of litigation, the process of communication is discontinued because of the presence of adversaries that are there in between the process of conflict resolution. This process can increase the level of conflict and aims mainly to benefit one particular party. On the contrary, the process of mediation makes sure that both the parties are heading up for the same objective, which is to resolve the issue in a harmonious manner. Motivating the parties for not encouraging conflict further and in finding out the way, which can benefit both of them is the main reason for which mediators perform their duties. In minor cases, the disputes can go up to court for their

complexity. In addition to this, it can even be concluded that training for mediators is the reason for which they are eligible for understanding the needs of two parties.

During their training, constant role play, indulging in different situations can enable them in determining the extent to which they must implement different strategies. These enable the mediators in gaining the needed skills, and traits, which further can help them in settling disputes in real-life situations. Assessing what the different roles and responsibilities are carried out by different healthcare sector employees is essential for mediators. However, it is even necessary for them to determine the route cause for not meeting the quality standard level set by the organization that they are working for and to determine the loophole that the organization had, which pushed them in doing so. The same is also applicable for the patient party, which will enable them in determining the extent to which they are even responsible for the mishappening. This can enable the mediator in crafting the way out for solving the issues and in benefiting both parties in the best possible manner.

5.2 Recommendation

Adequate training should be provided to health care mediators so that they are competent to deal with cases involving complex conflicts. They must have experience in handling cases of different varieties including home abuse, neglect, inadequate nutrition, mistakes in offering medication, accidents like slips and falls, bedsores, unsanitary health conditions, emotional neglect and alienation, sexual assault, rapes, and other violent attacks. The task of resolving conflicts in such cases can be a nerve-wracking job and thus it is very important to ensure that the meditators under question are highly experienced and skilled. Besides this, every nursing home must make sure that they choose meditation over litigation so that issues can be resolved in a systematic, respectable, and efficient manner without involving the court. Making experienced mediators deal with such conflicts will guarantee solutions because Meditators have substantial knowledge of the law as well as the details related to the case. The mediator can hold joint sessions with both parties and also conduct private meetings with the plaintiff and then the defendant so that both parties can feel like they are being heard.

Reluctancy from the side of the patient party for negotiating is one of the issues that the mediators face while performing their duties. Therefore, it is essential for any mediator to take up courses, which will allow them to enhance this skill. It can be recommended to the mediators to conduct formal meetings with the healthcare centres and to conduct informal meetings with the patient parties. This can enable them in determining the issues that are faced by both parties.

Additionally, it can also help them in understanding their needs as they can open up more easily. The practice of such communication techniques can further allow them to perform their duties in the best possible manner and in benefiting both the parties who are involved in it. However, it is also the responsibility of both the parties to share their situations in a clearer way, which can further help them in gaining from the process of mediation.

Alertness is a factor or skill, that need to be considered or need to be there in the mediator, which can allow them to come up with strategies that can stand appropriate for the situation. However, it can also be recommended to the mediators that they should be prepared, and to do that they must go through their assigned cases well. Mediators should craft the motive to compromise in both parties so that they can achieve their common goal. While performing mediation, it is even recommended to them to follow the principles, which can allow them in achieving optimum results. However, it is also recommended for the government to understand the timeliness and the effect of their existing laws that are applicable for healthcare mediation. The effectiveness must be calculated against the time span needed for the completion of a mediation case. Thus, it can be said that stricter but effective laws must be developed for future betterment.

Setting up criteria for which mediation can happen and for the ones which are not considered for future mediation from the side of the healthcare centres and letting the people know about them can be another way to communicate more clearly. This can ease the work of mediators in future. It is the responsibility of the healthcare centres as well to allow the patient party to have a clear idea about the issues that they have faced while treating their patients. Additionally, one mediator should have undergone various training beforehand, which can allow one individual in settling the disputes in the best possible way. Moreover, it can be said that mediation is not the solution, there will be no circumstance where a healthcare centre needs to compromise if their service quality level of up to the mark. Thus, it can also be said that one healthcare organization should perform their activities in such a way that it meets the set national standards, and are not involved with any act of negligence. This can be another way to ensure that the activities related to mediation is not needed, as there will be no such stances where the issues can occur.

5.3 Future Scope

Mediation has transcended various fields from law to healthcare and now it has the power of resolving innumerable disputes both at national and international stages. The scope of

mediation can be further increased by reputable hospitals and nursing homes providing efficient mediation facilities both nationally and internationally. When it comes to litigation, the process comes with its baggage. Problems like heavy costs and hostile atmosphere are some of the many reasons why plaintiffs are discouraged to adopt this method. Usually hiring lawyers can be so expensive that more than half of the compensation received is spent on this alone (Kline, 2015). Besides this, caregivers who undergo the process of litigation end up being cornered and ostracized by the medical society which causes a huge setback to their confidence. Therefore, considering all these factors, mediation turns out to be a method that is way more dependable and favourable for both the nursing homes and the patients. Besides promising confidentiality, it protects the relationship between both parties instead of hampering it. With many hospitals and nursing homes adopting this method, mediation will be considered favourable than the rest of the conflict settlement methods and its popularity will only increase.

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