



AAA Mediation.org™

**FN-4969667 MN-4969667 LN-4969667,
Esq.**

West Newton, Massachusetts



Current Employer-Title	Health Strategic Consultants – Founder and President Vytalize Provider Alliance - Strategic Advisor/President
Profession	Attorney, Health Care Consultant, Strategic Advisor/President of Vytalize Provider Alliance
Work History	Strategic Advisor/President, Vytalize Provider Alliance 2023- Present; President, Health Strategic Consultants, 2018-Present; Law Offices of Gail D. Sillman, 1998-Present; Strategic Business Advisor, Steward Health Care Network, 2017; Founder/CEO, Central Massachusetts Independent Physician Association, 1998-2017; Of Counsel/Chair, Bowditch & Dewey, 1996-1998; Regional Director, Physician Partners of New England (Subsidiary of BCBS of Massachusetts), 1994-1996; Senior Associate, Kalish & Ward, 1993-1994; Vice President of Legal Affairs, InterQual, 1991-1993; Senior Associate, Schlusser Lifton, 1986-1991.
Experience	<p>Practice focus is approximately 50% on matters representing the entire spectrum of health care clients in all aspects of business disputes, contracting, reimbursement and corporate formations (ACOs, IDFS, ANs) and commercial deals (mergers and acquisitions).</p> <p>The remainder of the practice pertains to overall employment issues, payor and provider disputes and general business disputes.</p>
Mediator Experience	<p>Mediation experience over several decades, which current cases primarily focused on multiparty healthcare disputes including, for example:</p> <p>A physician sued his former medical practice partners, claiming breach of contract (employment agreement) relating to physician's termination; breach of implied covenant of good faith and fair dealing; retaliation claim with the local Department of Labor and violation of state statute; defamation claim; negligent infliction of emotional distress; and intentional interference with business relations. The case was settled.</p> <p>A case involving a patient suing a large insurer and a health care system regarding a health insurance contract for improper payment of claims. Hospital was out-of-network. The case was settled.</p>

A case involving a large hospital system suing a large insurer regarding improper payment of claims. Case is pending.

Mediation experience as an advocate or party has involved disputes with insurance companies, vendors (EMR and MSO companies) and other provider networks.

“Informal” mediations have included competing hospital/healthcare systems, physician practices and payors.

**Representative Issues
Handled as a Mediator**

Payor-provider-patient disputes, ERISA, reimbursement disputes, breach of contract actions, negligence and tort claims.

**Mediator Style & Process
Preferences**

My mediation philosophy is to help the parties achieve a better outcome than they could in court and leave the experience less bitter and with more money in their pockets. I initially try to understand the situation of the parties and ascertain where they are in the mediation process and whether they have come to the mediation voluntarily or through a court order.

I will typically meet with the parties’ attorneys as early as possible and have them articulate their goals of mediation and the process they envision. At this meeting, we will discuss whether the parties have formulated a process upon which they want to follow or have suggestions as to how best to move the process forward as efficiently as possible. I also ask the parties to think about and be ready to initiate and convey a proposal for settlement and their rationale for settlement terms. I want the parties and their counsel to feel vested in the process and to begin to build a collaborative process.

I request mediation statements in advance of our scheduled mediation and try to convince the parties to draft non-confidential mediation statements so that all the parties can better understand each other’s positions.

Depending upon what the parties have decided will be the process, at the mediation, I will either meet with the parties together at a joint session or communicate with each party separately.

I understand the importance of confidential communications and will only share my views of the respective parties’ positions as a neutral when requested or when it appears that it will assist with resolution. I always seek and obtain the party’s permission before disclosing what I have learned in a session with them.

My preferred approach is to follow a facilitative methodology, but I will shift into an evaluative mediation if I feel it will move the parties closer together and towards resolution of the dispute.

If a settlement is reached at mediation, a preliminary memorandum of understanding or term sheet normally will be prepared and signed or initialed before the parties separate. Thereafter, I will ask that the parties to promptly draft a written settlement document incorporating all settlement terms.

I do believe a successful mediation is a non-zero-sum game that produces a mutually beneficial outcome. Each party has to give up something or leave something on the table, but still walk away feeling they were heard, treated respectfully and that their client received a fair outcome.

Education

Harvard School of Public Health (MPH-1985); Washington College of Law (JD-1984); Brandeis University (BA-1981)

Professional Licenses

Admitted to the Bar: Michigan (1986), Massachusetts (1992), Florida (1994).

Professional Associations

Florida Bar Association; Massachusetts Bar Association; Member, AHLA Mediation Roster.

**Recent Publications &
Speaking Engagements**

Invited Panel Expert to discuss: Comprehensive Primary Care Capitation: Lessons Learned & Insights” before Clinical Transformation Committee of Rhode Island, November 2020.
Invited Expert to participate and provide testimony on the “The Evolving Provider Market” Panel at the Massachusetts Health Care Cost Trends Hearing, 2016.

“ACO Development Case Study Improving Physician Engagement in an accountable delivery system” 2013 Medicare Advantage Strategic Business Symposium, 2013.
 “ACO Development Case Study Improving Physician Engagement in an accountable delivery system” Collaborative Care Summit: Medicare Chronic Care, 2013.
 "Risk Adjustment and Impact on Providers," 4th Annual Medicare Advantage Strategic and Business Symposium, 2012.
 “Risk Adjustment, RADV Audits and Impact on Providers” AHLA Medicare and Medicaid Institute, 2012.
 "New Strategies for Independent Physician Under Global Risk," Medicare Advantage Strategic Business Symposium, 2011.
 "Lessons Learned from Physicians’ Office Implementation," The Massachusetts Health Data Consortium’s HealthMart Conference and Tradeshow: How to Receive Your Meaningful Use Payments, 2011.

Locations Where Parties Will Not be Charged for Travel Expenses Massachusetts and Rhode Island

Mediation Rate \$350 Per Hour

Languages English

Citizenship United States of America

Locale West Newton, MA

The AAA’s Rules provide the AAA with the authority to administer a mediation including, mediator appointment, general oversight and billing. Accordingly, mediations that proceed without AAA administration are not considered AAA mediations, even when the parties select an mediator who is on the AAA’s Roster.

The information contained in this resume has been supplied solely by the individual mediator and may, or may not, be a complete recitation of their experience. The AAA assumes no responsibility for the content, completeness, accuracy, or reliability of the information contained in a mediator’s resume. If you have any questions about a mediator’s experience or background, you are encouraged to contact your case manager.

Mediators on the AAA Roster are not employees or agents of the AAA.