Eldercaring Coordination: 
Adding Age Diversity to the Family Equation

Florida Association of Family and Conciliation Courts Task Force on Eldercaring Coordination

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Judge Michelle Morley
Florida Dispute Resolution Conference 2016

Learning Objectives:

• 1. Identify cases that are appropriate for eldercaring coordination.
• 2. Explain the differences between eldercaring coordination, elder mediation and parenting coordination.
• 3. Describe barriers faced by the project and how to address them.

MSSION:

• To develop Eldercaring Coordination as a dispute resolution option specifically for those high conflict cases involving issues related to the care and needs of elders and vulnerable adults - to compliment, not replace, other services such as provision of legal information or legal representation, individual/family therapy, medical, psychological or psychiatric evaluation or mediation.

ACR TASK FORCE –
National Organizations/Entities & Canadian Interests

- Alternative Dispute Resolution Institute of Canada
- American Association of Marriage and Family Therapy
- American Bar Association Commission on Law & Aging
- American Bar Association Dispute Resolution Section
- American Psychological Association
- Association of American Retired Persons
- Association of Conflict Resolution
- Association of Family and Conciliation Courts
- Hamlin University School of Law
- National Council of Juvenile and Family Court Judges
- National Guardianship Network

Florida Chapter of the Association of Family and Conciliation Courts
Task Force on Eldercaring Coordination
FLAFCC TASK FORCE
FLORIDA STATEWIDE ORGANIZATIONS/ENTITIES

Department of Children and Families Adult Protective Services
Elder Justice Center
Florida Association for Marriage and Family Therapy
Florida Attorney General’s Office
Florida Bar Elder Section
Florida Chapter of the Association of Family and Conciliation Courts
Florida Chapter of the National Association of Social Workers
Florida Coalition Against Domestic Violence

• Advisory Committees offer support by recognized experts in related fields

Florida Dispute Resolution Center
Florida Legal Aid
Florida Psychological Association
Florida State Guardianship Association
Florida State Ombudsman
Nat. Assoc. of Prof. Geriatric Care Mngers.
National Patient Advocate, Inc.
Mediation Training Group
Office of the Public Guardian
Stetson University College of Law Center for Excellence in Elder Law
University of South Florida Conflict Resolution Collaborative

Framework Provided
• Guidelines for Eldercaring Coordination/Ethical Standards
• Pilot Project Site Template
• Learning Objectives and Training Protocols
• Grievance Procedure
• Prospective FL Rule of Procedure

ACR Task Force Guidelines:
http://acreldersection.weebly.com/

FLAFCC Task Force Guidelines:
http://www.flafcc.org/

Definition of Eldercaring Coordination:
• Eldercaring coordination is a dispute resolution process during which an Eldercaring coordinator assists elders, legally authorized decision-makers, and others who participate by court order or invitation to resolve disputes with high conflict levels in a manner that respects the elder’s need for autonomy and safety by:
  – Enabling more effective communication, negotiation and problem-solving skills;
  – Offering education about elder care resources;
  – Facilitating the creation, modification, or implementation of an elder care plan;
  – Making recommendations for resolutions; and
  – Making decisions within the scope of a court order or with the parties’ prior approval.

Transforming Intractable Conflict

By…
**HOW IS ELDERCARING COORDINATION DIFFERENT?**

- When the conflict, rather than the issues, becomes the driving force of the family and/or litigation process.

### Comparing Processes

<table>
<thead>
<tr>
<th><strong>Elder/Adult FamilyMediation</strong></th>
<th><strong>ELDERCARING COORDINATION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue Driven.</td>
<td>Conflict Driven.</td>
</tr>
<tr>
<td>Focus: Care of elder</td>
<td>Reducing conflict over elder’s care and safety</td>
</tr>
<tr>
<td>Voluntary Process</td>
<td>Court Ordered</td>
</tr>
<tr>
<td>Screen for abuse, neglect, and exploitation</td>
<td>Ripe for abuse, neglect, and exploitation</td>
</tr>
<tr>
<td>Facilitate negotiation and decision making</td>
<td>Multiple tools and strategies</td>
</tr>
</tbody>
</table>

### Comparing Processes

<table>
<thead>
<tr>
<th><strong>ELDER LAW</strong></th>
<th><strong>ELDERCARING COORDINATION</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Focus on Legal issues</td>
<td>Non-legal issues drive the conflict</td>
</tr>
<tr>
<td>One person is the client</td>
<td>Elder plus multiple parties are the client</td>
</tr>
<tr>
<td>Family dynamics are distracting</td>
<td>Family dynamics are central to the elder’s care</td>
</tr>
<tr>
<td>Use of court motions and orders to accomplish goals</td>
<td>Work with family outside court to establish priorities and examine consequences</td>
</tr>
</tbody>
</table>

### Comparing Processes

<table>
<thead>
<tr>
<th><strong>PARENTING COORDINATION</strong></th>
<th><strong>ELDERCARING COORDINATION</strong></th>
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</thead>
<tbody>
<tr>
<td>Primarily dyads</td>
<td>Multiple parties/stakeholders</td>
</tr>
<tr>
<td>Parents are decision-makers</td>
<td>Elder/Elder’s rep is decision-maker</td>
</tr>
<tr>
<td>Parents with minor children</td>
<td>Generational power-shifting</td>
</tr>
<tr>
<td>Addresses non-legal issues re: children</td>
<td>Addresses non-legal issues re: elders</td>
</tr>
</tbody>
</table>
FLAFCC Task Force: QUALIFICATIONS

Unless there is a written agreement between the parties, the court may appoint only a qualified EC:

- Licensed mental health professional under chapter 490 or chapter 491 with a masters degree
- Licensed physician under chapter 458
- Nurse under Chapter 464 with masters degree

Continued...

- Florida Supreme Court Certified family law mediator with masters degree
- Member in good standing of The Florida Bar
- Professional guardian defined by Florida Statute 744.1085 with masters degree.

WITH:

a. Three years of postlicensure or postcertification practice.
b. Family mediation training program certified by the Florida Supreme Court.
c. Elder mediation training that meets standards adopted by the ACR Elder Section
d. Eldercaring coordination training that meets the standards adopted by FLAFCC

Disqualifications

1. Does not meet Level 2 background screening defined in Florida Statute 435.04(2) and (3), or provisions of Florida Statute 435.07.
2. Is or has been respondent in final order for injunction for protection against domestic violence, dating, sexual, stalking or repeat violence.

Must discontinue service and immediately report to the court if no longer meets minimal qualifications or if any of the disqualifying circumstances described above occur, and the court may appoint another eldercaring coordinator.
PURPOSE of PROJECT

• Manage high conflict family dynamics
• Address non-legal issues outside of court
• Ready elder and family to work with collaterals, avoiding delays and resulting in better decisions
• Foster self-determination of the elder and family

Purpose continued...

• Promote safety by monitoring situations at high risk for abuse or neglect
• Provide a support system during times of transition
• Ease the burden of elders on the legal system

Pilot Sites

• One judge, or judges, in a specific county or province, who refers at least six families who participate in eldercaring coordination.

• Or group of attorneys who refer at least 6 cases through agreed orders...

Pilot Sites:

Florida (8 circuits)
Idaho
Indiana
Minnesota
Ohio

Research:

Pamela Teaster – Lead of Team
Virginia Tech’s Center for Gerontology
Florida Pilot Sites:
Eight Circuits so far:

5th: Bushnell, Sumter, Marion, Citrus, Hernando
7th: Putnam, Flagler/Volusia, Deland
9th: Orange/Osceola
12th: Sarasota/Manatee
13th: Hillsborough
15th: Palm Beach
17th: Fort Lauderdale/Broward
18th: Brevard, Seminole

Vision:

• Reducing conflict to enable aging adults to enjoy and rely upon family members and others in their support system without underlying resentment or hostility in their later years.

Identifying Cases:

• Mediation impasse
• Multiple motions
• Imbalance of power
• Constant disputes about un-measurable or unsubstantiated items
• Possessive or controlling behavior toward the elder
• Cases completed with APS where concerns continue

Barriers/Challenges:

• Identifying Cases – APS to assist
• Death of three elders – early identification
• Push back from attorneys/guardians – education/website
• Undermining party – Request for Status
• Fees/Affordability – sliding scale, lo/pro bono
• Language – need diversity in ECs
• Continued issues – term of EC
• Access to records – court order
• Need process for vulnerable adults – possible grant
WHY NOW?

• Baby boomers double 2008-2030
• Safety issues increase
• Disproportionate interest in court cases with children’s issues

Why now continued...

• No one size fits all responses to mediation / discrepancies in differentiation
• Lack of ADR options for elders
• Conserve resources - capitalize on court / community resources
• Time for interdivisional collaboration

Supports:

• Research
• Ongoing collaboration among Pilot Sites, ECs and Task Forces
• Monthly meetings
• Continued development/responses to challenges
• FLAFCC, ACR, AFCC, NCJFCJ

For more information contact:

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