

Introduction to ABA Task Force Elder Abuse Screening Guidelines

The pervasiveness of Elder Abuse is increasingly being recognized. These Guidelines have been developed to assist mediators in identifying factors of elder abuse that may inform the appropriateness of mediation. The Guidelines can also be used to advise referrals to additional professionals. While the mediator should be aware of all the questions and concerns in the Guidelines, not every question needs to be part of the initial meeting.

1. General Considerations

- a. The presence of the indicators of abuse does not mean that abuse is present. The literature indicates there is a correlation between the risk factors and actual abuse. Direct observation and any reports by the elder, a family member, or others involved in the mediation are important indicators that abuse may be happening. See chart: IDENTIFYING SIGNS OF ABUSE, NEGLECT AND EXPLOITATION.
 - b. The mediator is not an investigator or evaluator to determine the truthfulness of allegations of abuse.
 - c. Conducting a screening does not release a mandatory reporter from making a report. Know your state-specific reporting authority and/or entity and report to them as mandated.
 - d. The mediator has the responsibility to determine whether accommodations need to be made in order to proceed with a quality process to make the mediation safe and comfortable and accessible for all participants.
 - e. It is up to the mediator to determine if the mediation can move forward without the influence of coercive power and control and whether parties have the capacity to participate. The mediation should be terminated or the process altered if abuse is evident at the mediation table.
 - f. Following the completion of the questionnaire, the mediator should determine the appropriateness and, if appropriate, the format of the mediation. The mediator might consider modifying the mediation process to address safety in the discussion and/or agreement.
 - g. If the mediator determines that the mediation should not proceed, the mediator should consider reporting options such as Adult Protective Services, Consumer Protection, the police or other appropriate agencies.
2. An Intake sheet is provided as a reference that provides guidance for the first phone call. There is space to add the mediator's local referral numbers and websites to the intake sheet.
 3. Suggested approaches to pre-mediation interviews and working with elders:
 - a. It is highly recommended that mediators have training in Family Mediation and additional training in Eldercare Mediation prior to conducting these cases. The training should include information about conducting a screening prior to mediation, elder abuse, and sensitivity to the family dynamics and feelings of individuals.
 - b. It is best practice to screen for abuse in every mediation. Elders are at high risk for abuse.

- c. Each participant should be interviewed separately, except if they are represented the attorney may be present with them at the interview.
- d. Since relationships are important, the mediator should develop rapport with parties and non-party participants before asking sensitive questions. It is important that the mediator be sensitive to how people are responding to questions. If the mediator is too intrusive, participants may shut down, refuse to answer questions, or end the mediation.
- e. Face to Face screening with each person separately, particularly the elderly, is preferred if logistically possible. On-line videos or phone interviews are acceptable when necessary. If it is not possible to schedule a face to face interview prior to the first mediation session, a meeting with one or more participants a few minutes prior to the mediation or after a brief introduction to the process is an option.
- f. Screening should not end with the initial screening meeting. Screening is ongoing and open-ended throughout the mediation process.
- g. When speaking with elders, be aware of the following considerations:
 - i. Be aware of their current situation and condition
 - ii. Make sure that the elder has their glasses/hearing aid/dentures on and working
 - iii. Speak slowly, using short sentences
 - iv. Ask about only one thing at a time
 - v. Speak at eye level
 - vi. Be patient – give them time to answer
 - vii. DON'T correct them
 - viii. Believe someone if they say they've been abused
 - ix. Keep the focus on the Elder
- h. There should be an opening statement preceding the interview questions that explains the purpose of the interview, such as:

Sample introduction to the questionnaire:

The purpose of this meeting is to explain the process of the mediation and to ask questions about your situation. At the end of our meeting, it gives an opportunity for us to decide whether to go forward with the mediation, and in what format. I have a number of questions I'd like to ask you, and you may have questions you want to ask me as well. This is a confidential conversation. However, if we find that safety is at risk, we may need to report it. Where would you like to begin?

4. Terminating Safely:

If abuse or neglect is suspected or alleged, the mediator may decide to terminate the mediation. In order to avoid compromising safety it is suggested that abuse or neglect not be mentioned as a reason for termination. *[For newer mediators unfamiliar with safe termination wording: One suggestion is to terminate for benign reasons, such as scheduling problems or normal steps in the process. Another suggestion is to not schedule another meeting but to state that the mediator will be back in touch about follow-up. If there is follow-up, the mediator could, for example, write a letter thanking the parties for meeting with the mediator and leave it at that.]*

Intake for ABA Elder Abuse Screening Tool

When a call comes in to your business or organization:

Gather information

- On the current situation
 - Confidentiality
 - Neutrality
- Learn the specific request for services
- Emergency? Refer immediately.
- Provide helpful referrals

Are others interested in mediation?

- Provide information about your services
- Identify interests to come to the table
- Provide helpful referrals

Are there concerns about abuse, neglect, and exploitation?

- Listen for/ask about risk factors and capacity (Screening)
- Has there been an expert evaluation? When? Results?
- What is the trauma history in the family?

Is the mediator qualified and willing to take the case?

- Refer out if not qualified or willing at this time
- What accommodations and resources are needed?
Is an advocate or support person needed?
- What information does the family need to bring and who will bring them
Examples: Bank statements, legal documents, medical reports.

Continue to Screening and Mediation

- Ongoing screening as new information is revealed

Emergency Referrals – Add Phone Numbers

Adult Protective Services (APS)

Police

911 or Emergency room

Professionals and services – Contact Information

Elder Law Attorney

Area Agencies on Aging www.n4a.org

Social Worker; Discharge Planner

Housing Assistance

Bureau of Consumer Protection www.ftc.gov

Medical Assistance

Financial Advisor / Planner

Aging Life Care Professionals (formerly geriatric care

managers) www.aginglifecare.org

Criminal Prosecutor

IDENTIFYING SIGNS OF ABUSE, NEGLECT AND EXPLOITATION

A mediator may gather information by direct observation or from reporting by the elder or others.

RISK FACTORS are attributes, characteristics or exposures that are research or evidence based which when present increase the likelihood that abuse, neglect, or exploitation may be taking place. These risk factors may include: women over the age of 80 (2-3 times a greater risk); family member controlling the elder’s finances or living with, dependent on or caring for the elder (90% of abuse perpetrated by family members); history of violent relationships, bullying; abuse of power and control present in an elder’s significant relationship; weapons in the home; caregiver without employment or financially dependent; cognitive impairment, mental health concerns or substance misuse by elder and/or caregiver. A mediator may gather information by direct observation or from reporting by the elder or others.

INDICATORS: ORANGE - Further exploration is needed	SIGNS: RED - Consider further action/referral to a professional
<p>PHYSICAL ABUSE</p> <ul style="list-style-type: none"> • Unexplained bruising, welts, cuts, wounds, burns, blood visible on clothing, internal injuries, various stages of healing of any bruises/fractures; painful body movements; weight loss • The elder reports frequent yelling and fighting in the home • The elder reports: not going to the doctor for needed treatment; doesn’t care for food served; being ashamed/scolded/intimidated; being alone a lot • Elder seems scared; over sedated; unable to collect thoughts • Caregiver is overly protective; dominates the elder 	<p>PHYSICAL ABUSE</p> <p>Elder or another reports:</p> <ul style="list-style-type: none"> • Threat of physical harm or physical harm/touched the elder without permission • Food or water withheld from the elder • Over/under use or misuse of elder’s medication (medical compliance issues, elder not given medicine or is forced to take medication) • Untreated medical concerns or elder receives medical attention by numerous service providers/pattern of changing • Isolated from support (personal and professionals) • History of accidents/injuries <p>History or current involvement/complaint with Adult Protection Services or police (protection/restraining orders)</p>
<p>SEXUAL ABUSE/IPV</p> <ul style="list-style-type: none"> • Vague or indirect references to sexual assault/unwanted sexual advances • Overly dominate/protective caregiver • Elder reports anxiety; shame; has secrets; • Elder or another person reports oral or genital cuts, bruising, discomfort, inflammation, bleeding; sexually transmitted infections; urinary tract infections 	<p>SEXUAL ABUSE/IPV</p> <ul style="list-style-type: none"> • Elder or another person reports someone has harmed the elder physically or touched them without permission, or in a way that was unwanted

<p>ABANDONMENT/NEGLECT</p> <ul style="list-style-type: none"> • Dehydration, contractures, pressure sores, fecal impaction, malnutrition, poor hygiene, assistive devices not available or broken (dentures, hearing aides, prosthetics, glasses) • Elder has relied on someone for care and now that person fails to help • Elder reports dislike for food prepared or caregiver dismisses elder's preferences • Elder is withdrawn; has poor eye contact, cuts, bruises, inappropriate clothing for weather (not due to personal preference) • Not receiving medications or medical care 	<p>ABANDONMENT/NEGLECT</p> <p>Elder or another reports:</p> <ul style="list-style-type: none"> • Getting little to no food/water or medical care • Caregiver is withholding medication, assistive devices, medical care • Someone has threatened the elder • Family members/caregivers/or someone close to the elder cannot be trusted
<p>FINANCIAL EXPLOITATION</p> <ul style="list-style-type: none"> • Misuse of elder's money; elder has no personal money to meet daily needs or access to funds/checking account; large withdrawals from a previously inactive account; bounced checks/overdraft fees; unexplained discrepancy between known income and standard of living; low balances; deviations from normal banking patterns or unusual bank/ATM activity; missing or out of sequence checks; overpayment for goods/services; bills not being paid/overdue • Mail redirected to a new address 	<p>FINANCIAL EXPLOITATION</p> <ul style="list-style-type: none"> • Elder or another reports that the elder is forced to sign documents that the elder has not read or understood, or told just to sign document, write bad checks, hand money over, give things to another without permission or make inappropriate investments • Loans, money or possessions are not paid/given back to elder • Sudden property transfers or changes in wills/estate planning/ POA/Beneficiaries and other documents; new signers on accounts • Mediator suspects that a guardianship petition is an attempt to deprive the elder of his/her rights
<p>SELF NEGLECT</p> <ul style="list-style-type: none"> • Elder has malnutrition, dehydration, poor hygiene; noncompliance with medication/medical management; untreated medical concerns • Elder engages in: <ul style="list-style-type: none"> ○ Substance misuse (prescribed/illicit/OTC) ○ Hoarding behavior ○ Home has infestation 	<p>SELF NEGLECT</p> <ul style="list-style-type: none"> • Elder states intentional refusal to self-manage physical, mental, emotional health and wellbeing; general safety; financial affairs • Elder refuses to engage in adequate nutritional practices, medication administration, hydration efforts, appropriate hygiene, appropriate dress for weather • Active APS or police report/investigation

<p>EMOTIONAL/PSYCHOLOGICAL</p> <ul style="list-style-type: none"> • Elder or another person reports yelling, fighting, high stress in the home • Elder displays emotional distress as in tearfulness, depression, agitation, trembling, withdrawn, flat affect Elder expresses fear, mistrust, loneliness, lack of privacy, being ashamed, sad, pressure, anxiety, feeling uncomfortable towards primary caregiver or someone else • Elder or another person reports caregiver/someone else has failed to meet elder's needs 	<p>EMOTIONAL/PSYCHOLOGICAL</p> <ul style="list-style-type: none"> • Elder or another reports: Elder threatened; confined to a specific area (ex. Made to stay in bed when not sick); someone close to elder has engaged in frequent disparaging behavior; prevented elder from using any communication devices or communicating with family, friends or others • Elder expresses fear of caregiver or someone that the elder relies upon for needs
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QUESTIONS FOR FAMILY MEMBERS / OTHERS

1. What are your concerns?
 - a. Do you have any concerns about the care and welfare of the elder?
2. And then: same questions for elder but from a different angle -- (if they haven't already been answered)
 - a. Regarding the care of your elder, what could they use more help with these days?
 - b. Could you describe their living arrangements?
 - c. Could you describe their health care and needs?
 - d. Could you describe their connections with others?
 - e. How does _____ feel treated by the people around them?
 - f. In mediation, we generally want everyone who has a concern in the room. Who do you think should be at the meeting?
 - g. Is there someone you might not want at the first meeting? What is the concern?
 - h. How are finances handled? How is that working?
If they needed anything, how would they get it?
If they needed to pay for it, how would they get the money?
 - i. Does anyone live with them?
Who?
Do they pay rent or help out with any of the bills like electricity and water?
 - j. Have they been to the hospital or ER recently? Any doctor visits recently?
Is there anything you have concerns about that hasn't been followed up on?
3. Is there anything else you want me to know?

Possible follow-up questions:

-- What type of social activities does the Elder like? When did they last participate in them in any way?

INITIAL QUESTIONS FOR ELDER

NOTE: Before we even start asking questions, it's important to make a connection with the Elder, perhaps by noticing something personal in their surroundings to talk about.

General conversational questions we want to ask the elder to screen for abuse:

- Starter general questions:
- How are you doing? Or How are things going for you?
- How has your care been going?
- What more might you need? Or What do you want?
- Can you give me an idea of what most of your days are like?

Possible Follow-up Questions:

1. CARE
 - a. If you could change something about your care, what would that be?

2. SELF-CARE
 - a. Are there times when life seems a lot to manage/take care of? (*As a reflection, not a question?*)
 - b. Can you tell me more about that...?

3. WELL-BEING
 - a. How do you feel treated by the people around you?
 - b. Is there anyone you're less comfortable around?

4. FINANCES
 - a. Do you have any questions or concerns about your finances or your money?
 - b. Do you have enough money for your care?
 - c. Do you help other people in your life pay for things?
 - d. Do you have any concerns about how your money is being spent?

5. PHYSICAL SAFETY AND COMFORT
 - a. Have you had pain or injury that you didn't go to the doctor for?
 - b. What happened?
 - c. Did you tell anyone about it?
 - d. Has anyone touched you in a way that bothered you? In a place that bothered you?

6. Is there anything else you want me to know?

INTERVENTIONS ACTION CHART

Identified Abuses & Observations	Action to Be Taken	When
<p>Identified risk factors for abuse, neglect, or exploitation</p>	<ul style="list-style-type: none"> • Observe for evidence of abuse, neglect or exploitation • Listen for allegations of abuse, neglect or exploitation • Mediate if otherwise appropriate, but if allegations or evidence emerges, see below 	<ul style="list-style-type: none"> • At intake • During course of mediation • Post-mediation
<p>Credible allegations or evidence of abuse, neglect, or exploitation</p>	<ul style="list-style-type: none"> • Call protective services • Call the police • Call victim service program • Consider not mediating, or changing mediation participants • Protect the vulnerable adult in mediation and afterwards; Example: limiting contact between the elder and the alleged-abuser by using caucus and mediating the safety measures for visits • Discuss the situation with the elder’s attorney or advocate, or if there is none, strongly encourage the use of an advocate 	<ul style="list-style-type: none"> • At intake • During course of mediation • Post-mediation

Check the laws in your area and add the criminal and civil statutes below.



ADULT PROTECTIVE SERVICES DATA FACT SHEET FOR SFY 2018

The following information is based on data submitted by the county departments of job and family services. Eighty-Eight counties submitted data for state fiscal year (SFY) 2018.

Elder Abuse, Neglect and Exploitation in Ohio

From July 1, 2017, through June 30, 2018, a total of **19,492** reports of ***abuse, neglect*** and ***exploitation*** were received by the county departments of job and family services for adults 18 years of age and over. Of the **19,492** reports, **14,597** were reports for adults age 60 and over.

Abuse was alleged in **4,486** of the reports received. There are three categories of ***abuse*** that comprise the total number: *Emotional Abuse, Physical Abuse and Sexual Abuse*.

Neglect was alleged in **9,689** reports received. There are two categories of ***neglect*** that comprise the total number: *Self Neglect* and *Neglect by Others*.

Exploitation was alleged in **5,317** of the reports received.

A total of **256** reports indicated an emergency existed.

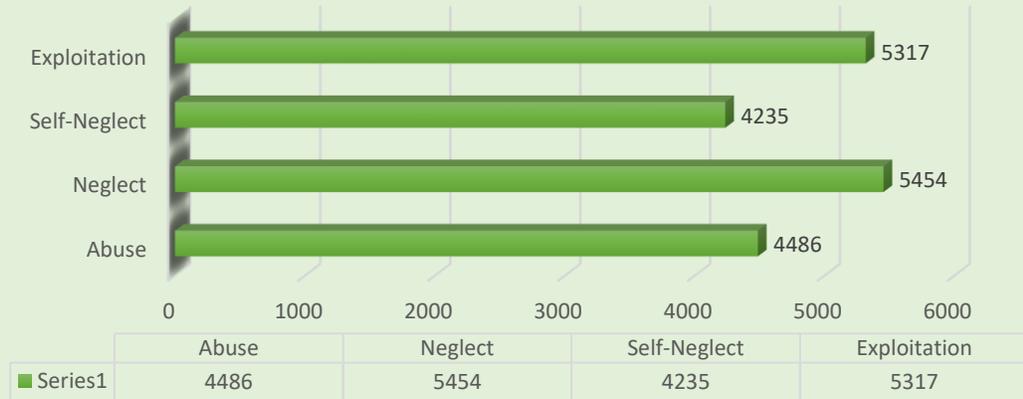
A total of **4,490** individuals were identified as in need of services. Of this number:

- **1,286** individuals agreed to receive services from the CDJFS.
- **1,239** individuals refused services from the CDJFS.
- **1,279** individuals were referred to other community agencies for services.
- **478** individuals were unable to agree to services.
- **208** individuals were the subject of court intervention.

Note: Some reports had multiple primary allegations.

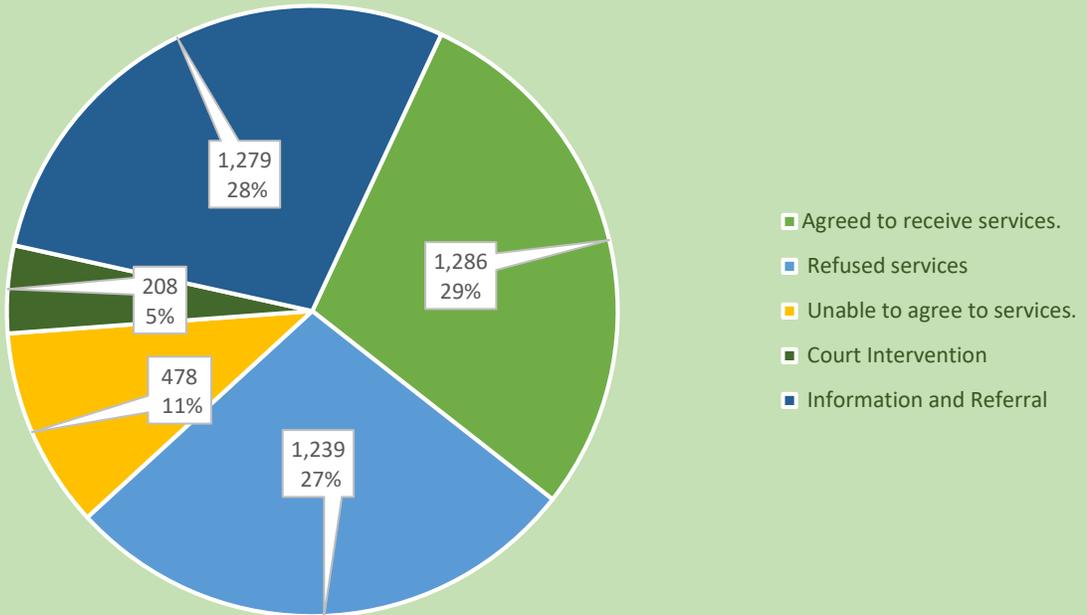
Types of Reports Received

Allegations



Number of Incidents

In Need of Protective Services





Adult Protective Services

What are adult protective services?

Adult protective services help vulnerable adults age 60 and older who are in danger of harm, are unable to protect themselves, and may have no one to assist them. The Ohio Department of Job and Family Services (ODJFS) supervises the state's Adult Protective Services program. ODJFS plans and develops programs and writes rules and regulations pertaining to adult protective services. The county departments of job and family services receive and investigate reports of abuse, neglect and exploitation of vulnerable adults and evaluate the need for protective services. County departments receive guidance from ODJFS.

What types of things are considered abuse?

The most common types of elder abuse reported in Ohio are neglect, self-neglect, exploitation, and emotional, physical and sexual abuse.

- Neglect is the failure of an adult to provide the goods or services necessary for his or her own safety and/or well-being – such as avoiding physical harm, mental anguish or mental illness – or the failure of a caretaker to provide such goods or services.
- Exploitation is the unlawful or improper act of a caretaker using an adult or his/her resources for monetary or personal benefit, profit or gain.
- Physical abuse is the intentional use of physical force that results in injury, pain or impairment. It includes pushing, hitting, slapping, pinching and other ways of physically harming a person. It can also mean placing an individual in incorrect positions, force feeding, restraining or giving medication without the person's knowledge.
- Emotional abuse occurs when a person is threatened, humiliated, intimidated or otherwise psychologically hurt. It includes the violation of an adult's right to make decisions and the loss of his or her privacy.
- Sexual abuse includes rape or other unwanted, nonconsensual sexual contact. It also can mean forced or coerced nudity, exhibitionism and other non-touching sexual situations, regardless of the age of the perpetrator.

What is the best way to report suspected abuse or neglect?

If you believe that an adult age 60 or older has suffered abuse, neglect or exploitation, you may file a report with your county department of job and family services by phone, mail, fax or in person during agency hours – or you can call 1-855-OHIO-APS (1-855-644-6277) toll-free 24/7. If you need to make a report, provide as much of the following information as possible:

- Name, address and approximate age of the person
- Name and address of the person responsible for the victim's care
- The name and address of the alleged perpetrator, if different from the caretaker
- The reason you suspect abuse, neglect or exploitation
- The nature and extent of the suspected abuse, neglect or exploitation
- Any other known information

To find the phone number and location of your county agency, visit jfs.ohio.gov/county/County_Directory.pdf.

Combating Elder Maltreatment through Laws, Legal Interventions and Eldercaring Coordination

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LEARNING OBJECTIVES

1. Identify forms and indicators of elder maltreatment.
2. Review the role and responsibilities associated with the Adult Protective Services including non-voluntary legal interventions (Ohio Revised Code 5101.61-5101.73).
3. Explain how eldercaring coordination safeguards older adults in families with high conflict dynamics.

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PREVENTING ELDER ABUSE VIDEO

https://www.youtube.com/watch?v=n_nAkP2Q1T0

Elder Abuse New Segment

Learn about the signs of elder abuse and the importance of reporting these heinous acts of crime. To learn more, visit www.ncpc.org/crimesagainstsensors after the video.

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WHAT IS ELDER ABUSE AND NEGLECT?

Elder Abuse:

- Any knowing, intentional, or negligent act
- By self, a caregiver and/or other in a position of trust
- That causes harm or a serious risk of harm to a vulnerable older person

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LEARN THE WARNING SIGNS

- Changes in the older adult's physical appearances
- Changes in the older adult's personality
- Observing a dominating or threatening caregiver
- Observing changes in the older adult's home environment

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CONTRIBUTING FACTORS

- **Isolation** – self imposed or lack of mobility
- **Dementia** or other type of cognitive decline
- **Increasing older adult population**
 - Adult children have a sense of entitlement
 - Seniors are trusting and believe "pitches"
 - Substance abuse problems or mental illness

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TYPES OF ELDER ABUSE

When an older adult experiences:

- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect by others
 - Abandonment
- Self-Neglect
- Exploitation

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OHIO'S REPORTING STRUCTURE

- Adult Protective Services (community) - **(855)-644-6277**
- Law Enforcement (community and facility)
- LTC Ombudsman (facility) - **(800) 282-1206**
- Ohio Dept of Health (facility) - **(800) 342-0553**
- AGO HealthCare Fraud Dept - **(614) 466-0722**
- Dept of Commerce - **(614) 466-8400**

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OHIO ADULT PROTECTIVE SERVICES

- Civil investigation
- Limited by the **ORC (5101.60 - 5101.73)**
- Age, impairment, community dwelling
- Primary mission to put protective services in place
- Least restrictive solutions
- Autonomy/self-determinations
- Adult has right to refuse services

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DUTY TO REPORT- 5101.63

Any mandatory reporter who has **reasonable cause to believe**; that an adult is being abused, neglected, or exploited; or is in a condition which is a result of abuse, neglect, or exploitation **shall immediately report to the county dept. of job and family services or it's designee.**

ONLY A SUSPICION IS REQUIRED

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YOU ARE PROTECTED

Any person with reasonable cause to believe an adult is suffering abuse, neglect, or exploitation, who makes a report, testifies or acts responsibly in the discharge of their official duties

- **Shall be immune from civil/criminal liability:**
- **Unless the person acted in bad faith or with malicious purpose.**

ORC 5101.99 – Up to \$500.00 in fines for not reporting

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EFFECTIVE MARCH 2019- SB 158 – SENATOR WILSON

Adds protection to Ohio's elderly from financial harm & exploitation:

- Increases public awareness and a best practices toolkit for professionals
- Added penalties up till a \$50,000 fine
- Added more mandatory reporters;
 - **Sales person as defined under Chapter 1707 or the ORC**
 - **Investment Adviser**
 - **Investment Adviser Representative**
 - **Dealers**

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CAPACITY AND COMPETENCE

Capacity and **competency** are interchangeable concepts?

- True
- False

ASK THE EXPERT

Can the elder abuse victim ...

- Make their own decisions?
- Manage their finances?
- Manage to live independently?
- Create or change a will, trust or execute a power of attorney?
- Understand that someone is influencing them?

APS PROTECTIVE SERVICE ORDERS (PSO)

- **ORC 5101.651** Temporary restraining order
- **ORC 5101.69** Temporary restraining order to restrain person from interfering with provision of protective services
- **ORC 5101.68** General PSO
- **ORC 5101.70** Emergency PSO
- **ORC 5101.701** Ex-Parte Emergency PSO

GENERAL EVIDENCE FOR PSO

- Client is unable to protect self
- Confirmed allegation(s) of A/N/E
- History of least restrictive attempts
- Facts showing APS's attempts to obtain the adult's consent
- Current risk of harm if no action is taken

ELDER ABUSE VICTIMS HAVE RIGHTS TOO!

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COURT LIMITATIONS

- Services must be necessary and available
- Change of residence only if deemed necessary
- Emergency Orders -14 day order
- General Orders – Up to 6 months
- Authorize the director of the department to give consent for the approved emergency services
- Excludes hospital under section 5122.01

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HOW TO CONTACT US:

Ohio Attorney General Dave Yost
30 E. Broad St. Columbus, OH 43215
800-282-0515
[www. OhioAttorneyGeneral.gov](http://www.OhioAttorneyGeneral.gov)

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INTRO TO THE ELDER CARING COORDINATION VIDEO

<http://www.ohiochannel.org/video/court-news-ohio-judges-trained-on-cutting-the-conflict-for-elderly-care>

- Ohio is at the forefront of a program aimed at helping resolve family disputes when it comes to taking care of their elderly loved ones.
- Families in conflict turn to Eldercaring Coordination for help to resolve their disagreements regarding the autonomy, care, and safety of older adults.

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60% OF ABUSE IS PERPETRATED BY FAMILY MEMBER

National Council on Aging

ACR/FLAFCC ELDER JUSTICE INITIATIVE ON ELDERCARE COORDINATION



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ELDERS MAY REJECT INTERVENTION

Because they:

- Do not want family members to be in trouble
- Don't want to admit being taken advantage of
- Fear the loss of their independence
- Fear losing dependence upon the abuser

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TRADITIONAL RESPONSES TO ELDER ABUSE..

- Adult Protective Services
- Law Enforcement
- Court System

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NEW OPTION: ELDERCARE COORDINATION

**Resolves high conflict disputes in a manner
that respects the elder's need for autonomy
and safety...**

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ELDERCARING COORDINATION

...helps families reduce conflict, minimizes risks and abuse, and respects and preserves the dignity, and quality of life of aging persons.



THE ELDERCARING COORDINATOR (EC)

- Teaches effective communication, negotiation and problem-solving
- Offers options for elder care resources
- Facilitates eldercaring plan to coordinate collaboration and track progress
- Makes recommendations for resolutions
- Makes decisions within scope of court order or parties' prior approval



ELDERCARING COORDINATOR QUALIFICATIONS

- Master's degree
- Licensure or Certification
- Extensive practical profession experience with high conflict families
- **Required training:**
 - Family mediation
 - Elder mediation
 - Eldercaring Coordination



FAMILY SECRETS & SAFETY ISSUES UNCOVERED

- | | |
|-----------------|--------------------------------|
| • Abuse/Neglect | • Unsafe environment |
| • Coercion | • Physical challenges |
| • Vulnerability | • Caregiver capacity |
| • Isolation | • Substance abuse/ Mismatching |



HOW ECS COMBATS EFFECTS OF ELDER ABUSE

- Identify risks
- Address non-legal issues
- Foster self-determination
- Teach elder/family to collaborate
- Foster intergenerational support system

RESPONSIVE, LESS EXPENSIVE, PRIVATE!

**• ELDERCARE COORDINATION BENEFITS
MULTIGENERATIONS IN FAMILIES**

ELDERCARE COORDINATION IN OHIO

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

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

ECs trained in: California, Florida, Idaho, Indiana, Maryland, Minnesota, Ohio, Toronto

= Interested counties:

Butler, Cuyahoga, Franklin, Hamilton, Henry, Summit, Trumbull, Warren

OHIO



= Pilot sites:
Delaware, Montgomery, and Stark

Eldercaring Coordination Video
<https://www.youtube.com/watch?v=LQdPscMcim4>

"I just want my family to get along"

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FOR MORE INFORMATION:

Elder Justice Initiative on Eldercaring Coordination Co-Chairs:
Linda Fieldstone – Lindafieldstone@outlook.com
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YOUTUBE Eldercaring Coordination

The Supreme Court of Ohio
Dispute Resolution
Conference 2020

QUESTIONS.....



The Supreme Court of Ohio
Dispute Resolution
Conference 2020

Combating Elder Maltreatment through
Laws, Legal Interventions
and
Eldercaring Coordination

LEARNING OBJECTIVES

1. Identify forms and indicators of elder maltreatment.
2. Review the role and responsibilities associated with the Adult Protective Services including non-voluntary legal interventions (Ohio Revised Code 5101.61-5101.73).
3. Explain how eldercaring coordination safeguards older adults in families with high conflict dynamics.

PREVENTING ELDER ABUSE VIDEO

https://www.youtube.com/watch?v=n_nAkP2Q1T0

Elder Abuse New Segment

Learn about the signs of elder abuse and the importance of reporting these heinous acts of crime. To learn more, visit www.ncpc.org/crimesagainstseniors after the video.

WHAT IS ELDER ABUSE AND NEGLECT?

Elder Abuse:

- Any knowing, intentional, or negligent act
- By self, a caregiver and/or other in a position of trust
- That causes harm or a serious risk of harm to a vulnerable older person

LEARN THE WARNING SIGNS

- Changes in the older adult's physical appearances
- Changes in the older adult's personality
- Observing a dominating or threatening caregiver
- Observing changes in the older adult's home environment

CONTRIBUTING FACTORS

- **Isolation** – self imposed or lack of mobility
- **Dementia** or other type of cognitive decline
- **Increasing older adult population**
 - Adult children have a sense of entitlement
 - Seniors are trusting and believe “pitches”
 - Substance abuse problems or mental illness

TYPES OF ELDER ABUSE

When an older adult experiences:

- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect by others
 - Abandonment
- Self-Neglect
- Exploitation

OHIO'S REPORTING STRUCTURE

- Adult Protective Services (community) - **(855)-644-6277**
- Law Enforcement (community and facility)
- LTC Ombudsman (facility) - **(800) 282-1206**
- Ohio Dept of Health (facility) - **(800) 342-0553**
- AGO HealthCare Fraud Dept - **(614) 466-0722**
- Dept of Commerce - **(614) 466-8400**

OHIO ADULT PROTECTIVE SERVICES

- Civil investigation
- Limited by the **ORC (5101.60 - 5101.73)**
- Age, impairment, community dwelling
- Primary mission to put protective services in place
- Least restrictive solutions
- Autonomy/self-determinations
- Adult has right to refuse services

DUTY TO REPORT- 5101.63

Any mandatory reporter who has reasonable cause to believe; that an adult is being abused, neglected, or exploited; or is in a condition which is a result of abuse, neglect, or exploitation shall immediately report to the county dept. of job and family services or it's designee.

ONLY A SUSPICION IS REQUIRED

YOU ARE PROTECTED

Any person with reasonable cause to believe an adult is suffering abuse, neglect, or exploitation, who makes a report, testifies or acts responsibly in the discharge of their official duties

- **Shall be immune from civil/criminal liability;**
- **Unless the person acted in bad faith or with malicious purpose.**

ORC 5101.99 – Up to \$500.00 in fines for not reporting

EFFECTIVE MARCH 2019- SB 158 – SENATOR WILSON

Adds protection to Ohio's elderly from financial harm & exploitation;

- Increases public awareness and a best practices toolkit for professionals
- Added penalties up till a \$50,000 fine
- Added more mandatory reporters;
 - **Sales person as defined under Chapter 1707 or the ORC**
 - **Investment Adviser**
 - **Investment Adviser Representative**
 - **Dealers**

CAPACITY AND COMPETENCE

Capacity and **competency** are interchangeable concepts?

- True
- False

ASK THE EXPERT

Can the elder abuse victim ...

- Make their own decisions?
- Manage their finances?
- Manage to live independently?
- Create or change a will, trust or execute a power of attorney?
- Understand that someone is influencing them?

APS PROTECTIVE SERVICE ORDERS (PSO)

- ORC 5101.651 Temporary restraining order
- ORC 5101.69 Temporary restraining order to restrain person from interfering with provision of protective services
- ORC 5101.68 General PSO
- ORC 5101.70 Emergency PSO
- ORC 5101.701 Ex-Parte Emergency PSO

GENERAL EVIDENCE FOR PSO

- Client is unable to protect self
- Confirmed allegation(s) of A/N/E
- History of least restrictive attempts
- Facts showing APS's attempts to obtain the adult's consent
- Current risk of harm if no action is taken

ELDER ABUSE VICTIMS
HAVE RIGHTS TOO!

COURT LIMITATIONS

- Services must be necessary and available
- Change of residence only if deemed necessary
- Emergency Orders -14 day order
- General Orders – Up to 6 months
- Authorize the director of the department to give consent for the approved emergency services
- Excludes hospital under section 5122.01

HOW TO CONTACT US:

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30 E. Broad St. Columbus, OH 43215
800-282-0515
[www. OhioAttorneyGeneral.gov](http://www.OhioAttorneyGeneral.gov)

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April.Wehrle@OhioAttorneyGeneral.gov

Sylvia Pla-Raith- Director, Elder Justice Unit
614-466-3493
Sylvia.Pla-Raith@OhioAttorneyGeneral.gov



INTRO TO THE ELDER CARING COORDINATION VIDEO

<http://www.ohiochannel.org/video/court-news-ohio-judges-trained-on-cutting-the-conflict-for-elderly-care>

- Ohio is at the forefront of a program aimed at helping resolve family disputes when it comes to taking care of their elderly loved ones.
- Families in conflict turn to Eldercaring Coordination for help to resolve their disagreements regarding the autonomy, care, and safety of older adults.

60% OF ABUSE IS PERPETRATED BY FAMILY MEMBER

National Council on Aging



ACR/FLAFCC ELDER JUSTICE INITIATIVE ON ELDERCARE COORDINATION



THE SUPREME COURT OF OHIO
Dispute Resolution
Conference 2020

ELDERS MAY REJECT INTERVENTION

Because they:

- Do not want family members to be in trouble
- Don't want to admit being taken advantage of
- Fear the loss of their independence
- Fear losing dependence upon the abuser



TRADITIONAL RESPONSES TO ELDER ABUSE..

- Adult Protective Services
- Law Enforcement
- Court System



NEW OPTION: ELDERCARING COORDINATION

Resolves high conflict disputes in a manner that respects the elder's need for autonomy and safety...



ELDERCARING COORDINATION

...helps families reduce conflict, minimizes risks and abuse, and respects and preserves the dignity, and quality of life of aging persons.



THE ELDERCARING COORDINATOR (EC)

- Teaches effective communication, negotiation and problem-solving
- Offers options for elder care resources
- Facilitates eldercaring plan to coordinate collaboration and track progress
- Makes recommendations for resolutions
- Makes decisions within scope of court order or parties' prior approval



ELDERCARE COORDINATOR QUALIFICATIONS

- Master's degree
- Licensure or Certification
- Extensive practical profession experience with high conflict families
- **Required training:**
 - Family mediation
 - Elder mediation
 - Eldercaring Coordination



FAMILY SECRETS & SAFETY ISSUES UNCOVERED

- Abuse/Neglect
- Coercion
- Vulnerability
- Isolation
- Unsafe environment
- Physical challenges
- Caregiver capacity
- Substance abuse/ Mismatched medication



HOW ECS COMBATS EFFECTS OF ELDER ABUSE

- Identify risks
- Address non-legal issues
- Foster self-determination
- Teach elder/family to collaborate
- Foster intergenerational support system

RESPONSIVE, LESS EXPENSIVE, PRIVATE!



- **ELDERCARING COORDINATION BENEFITS**
MULTIGENERATIONS IN FAMILIES



ELDERCARING COORDINATION IN OHIO

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.

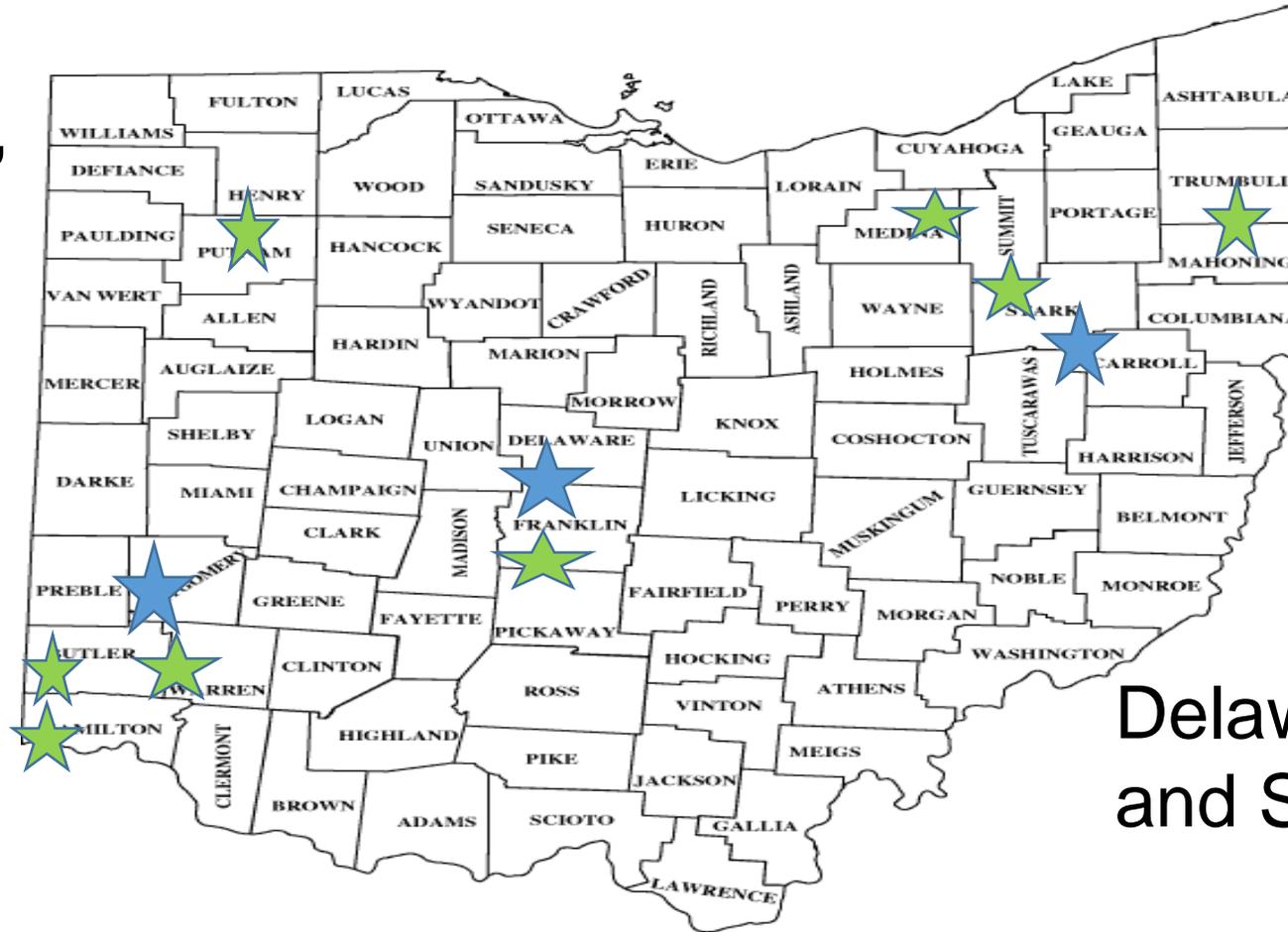
ECs trained in: California, Florida, Idaho, Indiana, Maryland, Minnesota, Ohio, Toronto



★ = Interested counties:

Butler, Cuyahoga,
Franklin, Hamilton,
Henry, Summit,
Trumbull, Warren

OHIO



★ = Pilot sites:
Delaware, Montgomery,
and Stark

Eldercaring Coordination Video

<https://www.youtube.com/watch?v=LQdPscMcim4>

“I just want my family to get along”

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QUESTIONS.....



**Family conflict
regarding ageing
loved ones
is an issue
without borders**



ELDER JUSTICE INITIATIVE ON ELDERCARING COORDINATION

Eldercaring coordination . . . a dispute resolution process for high conflict families that turn to the court for decisions regarding the care and safety of ageing persons.

Eldercaring coordination can:

Save money and time –

- Fees are shared instead of incurring individual court expenses
- Nonlegal issues resolve without waiting for court hearings

Decrease family conflict –

- Solution focus emphasizes strengths, not blame
- Family decision-making centers on the ageing person rather than adversarial actions

Meet the needs of ageing persons and their families –

- Family privacy and ageing person's dignity are preserved
- Stigma of "incapacity" is avoided when family members work together to provide care of ageing loved ones

**Dedicated to expanding
worldwide the reach of
Eldercaring Coordination**

– a compassionate,
court -alternative process that
helps families reduce conflict
while enhancing the safety,
autonomy and quality of life of
their ageing loved ones

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The Eldercaring Coordination Initiative is devoted to providing best practices, training and research that helps courts and communities reduce family conflict about care and safety of their ageing loved ones. The work of the Initiative:

- Expands availability of **eldercaring coordination** through existing and new Pilot Sites
- Provides continuous support for Eldercaring Coordinators, Pilot Site Administrators, Judges, Magistrates and Hearing Officers
- Trains Eldercaring Coordinators according to the Association for Conflict Resolution's Guidelines for Eldercaring Coordinators Training Protocols

Eldercaring coordination is the only dispute resolution process developed specifically to address the unique needs of high conflict families caring for an ageing loved one.



- Provides education about eldercaring coordination to the public and professionals
- Improves decision-making outcomes of family and legally authorized decision-makers by focusing on the needs, voice and safety of ageing persons
- Conserves judicial time, optimizing community supports to address non-legal issues
- Supports research to enhance the benefits of eldercaring coordination
- Encourages collaborations within court systems and communities to support eldercaring coordination

Families become better role models for the next generation when eldercaring coordination teaches them the skills to cooperatively resolve disputes and make decisions that respect the dignity, safety and autonomy of their ageing loved ones.



IF YOU ARE INTERESTED IN STARTING A PILOT SITE OR OBTAINING MORE INFORMATION, CONTACT THE ELDERCARING COORDINATION INITIATIVE CO-CHAIRS:



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Eldercaring Coordination Initiative Development Chair: Marta Alfonso, MBAF / marta@malfonsoandcompany.com

***“Eldercaring
Coordination
saved that
man’s life!”***

– Florida Judge

ASSOCIATION FOR CONFLICT RESOLUTION (ACR) ELDER JUSTICE INITIATIVE ON ELDERCARING COORDINATION

In a ground-breaking effort to improve the lives of ageing persons and families involved in high conflict litigation, the ACR Task Force, composed of twenty US/Canadian organizations, collaborated with the twenty statewide organizations in the Florida Chapter of the Association of Family and Conciliation Courts Task Force to develop ***eldercaring coordination***, “a **dispute resolution option specifically for high conflict cases involving issues related to the care and needs of ageing persons.**”

Eldercaring Coordination complements and does not replace other services such as provision of legal advice and representation; financial guidance; individual and family therapy; medical, psychological or psychiatric evaluation and mediation.

FREQUENTLY ASKED QUESTIONS

What is Eldercaring Coordination?

Eldercaring coordination is a court-ordered process for ageing persons and their families in high conflict situations. Highly qualified and trained conflict resolution specialists called Eldercaring Coordinators:

- Enable more effective communication, negotiation and problem-solving skills;
- Offer education about care resources for ageing persons;
- Facilitate the creation and implementation of an ageing person’s care plan;
- Recommend how to resolve non-legal conflict; and
- Make decisions within the scope of a court order or with the parties’ prior approval.

Why is eldercaring coordination court-ordered?

A court orders eldercaring coordination when it wants to ensure an ageing person is safe and well cared for but believes the family conflicts may be jeopardizing those goals. Families identified for the process may have a difficult time agreeing to anything, let alone a dispute resolution process. The court’s order to participate in eldercaring coordination gives those families a way to resolve disputes, ensures family members know the importance of working together and provides accountability for court-ordered participants in caring for the ageing person.

What is an Eldercaring Coordination Pilot Site?

A Pilot Site is where one judge or judges in a specific circuit, district or county have the goal of referring at least six families to eldercaring coordination OR where a group of attorneys agree to refer at least six cases to eldercaring coordination through an agreed order.

What about research?

The development of Eldercaring Coordination is based on research about trauma-informed, person-centered care; dispute resolution; court processes; and family conflict and its intergenerational effects. An independent research team at Virginia Tech University led by Pamela Teaster, Ph.D., Director Center for Gerontology, and Megan Dolbin-MacNab, Ph.D., Director of the Doctoral Program in Marriage and Family Therapy, are currently studying the process to enhance eldercaring coordination as it progresses. This will ensure the development of the most promising practices to achieve the greatest benefits from the process.

Why is this important to you?

Eldercaring coordination is the only dispute resolution process developed specifically to address the unique issues of high conflict families caring for an ageing loved one. Eldercaring coordination can help a family embrace the last years of their ageing loved one's life instead of being mired in heartbreaking conflict that results when families fail to develop a support system at that crucial time. The impact of the growing ageing population on court systems will be enormous, straining already limited budgets and resources. Eldercaring coordination can free courts from micromanaging non-legal issues about an ageing person's care by providing families with a more effective, less intrusive alternative for conflict management. When people agree to cooperatively resolve their issues rather than having a court decision imposed upon them, there is a better chance they will implement their agreements; this saves time and resources for the family, the court and the community-at-large.

Helping the greatest
wish of ageing persons
come true:

***"All I really
want is for my
family to get
along!"***

How can you support the Eldercaring Coordination Initiative?

With the goal of making eldercaring coordination accessible to all ageing persons and families in conflict, the Eldercaring Coordination Initiative needs support to:

- Provide training to increase the numbers of Eldercaring Coordinators and Pilot Sites;
- Produce educational videos for courts, professionals, participants and the public;
- Promote research to enhance the development of eldercaring coordination and inform best practices;
- Develop a National Virtual Center for Eldercaring Coordination;
- Hire a Program Coordinator; and
- Provide resources for indigent families to participate in eldercaring coordination.

If you can help, please contact Development Chair Marta Alfonso, or Linda Fieldstone or Sue Bronson.



**IF YOU ARE INTERESTED IN STARTING A PILOT SITE OR OBTAINING MORE INFORMATION,
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*Picture a
compassionate court-
alternative response
to family conflict
related to the care and
safety of an ageing
loved one . . .*



ELDERCARING COORDINATION

. . . a dispute resolution option for **high conflict families** that turn to the courts for decisions regarding the care and safety of ageing persons

The court may refer a case for eldercaring coordination when there are:

- Multiple court motions raising non-legal issues
- Concerns about an ageing person's care and safety
- Imbalances of power where only some parties have legal representation
- Frequent disputes about unmeasurable or unsubstantiated issues
- Possessive or controlling behaviors toward the ageing person

FOR YOU AND
YOUR FAMILY

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Eldercaring coordination reduces conflict among family members so they can work together more productively and focus on the ageing person's care.

Eldercaring Coordinators:

- Manage high conflict family dynamics
- Support the ageing person's self-determination for as long as possible
- Promote safety by monitoring at-risk situations
- Develop a support system for the ageing person and family



“Eldercaring Coordination maintains the focus of the family on the ageing person rather than their disputes.”

– Florida Attorney

Eldercaring Coordination can help you avoid a court battle when your ageing loved one and your family most need peace!

Referrals to eldercaring coordination come from the court, although they also may be identified by Adult Protective Services or a similar government office; requested by parties, guardians and attorneys; or recommended by other professionals working with the family.



FOR MORE INFORMATION CONTACT THE ELDERCARING COORDINATION INITIATIVE CO-CHAIRS:

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Association for Conflict Resolution (ACR) Elder Justice Initiative on Eldercaring Coordination

FREQUENTLY ASKED QUESTIONS

What is Eldercaring Coordination?

Eldercaring coordination is a court-ordered process for ageing persons and their families, legally authorized decision-makers, and others who are court-ordered or invited to participate, that helps resolve disputes regarding ageing persons' autonomy and safety.

What does an Eldercaring Coordinator (EC) do?

An EC:

- Enables more effective communication, negotiation and problem-solving skills;
- Offers education about care resources;
- Facilitates the creation and implementation of an ageing person's care plan;
- Recommends how to resolve non-legal conflict; and
- Makes decisions within the scope of a court order or with the parties' prior approval.

Who is an Eldercaring Coordinator (EC)?

An EC is a highly qualified conflict resolution specialist, licensed or certified by a regulatory body of a jurisdiction, state or province, who has completed:

- A master's degree;
- Three years of post-licensure or post-certification practice;
- A family mediation training program certified by the circuit, state or province;
- An elder mediation training program that meets the standards approved and adopted by the Association for Conflict Resolution; and
- An Eldercaring Coordination training program that meets the criteria within the ACR Guidelines for Eldercaring Coordination.

Why is all that training necessary?

Family conflicts about the care of an ageing person delays needed decision-making, impedes medical treatment and increases safety risks for the ageing person. An EC must be well-prepared to help resolve high conflict family situations, which may include family members who escalate disputes, frequently file complaints and initiate adversarial actions. The EC is a conflict resolution specialist who helps participants focus on the ageing person rather than their resentments toward each other so the family can work with appropriate experts to meet the needs of the ageing person.

“This was the best Father’s Day we’d had in a long time!”

– Adult children appreciative of the eldercaring coordination process

Who pays for the work of the EC?

The family shares the cost of the EC, reducing time and money spent compared to frequent litigation. The court determines how the EC's fees are split among the family members and participants, decreasing the overall court-related costs that might be borne by each person in paying for lawyers and experts to litigate the same conflicts. Attorneys continue to represent their respective clients to help with legal issues as needed. Participants are informed if there are grants or scholarships available to defray costs.

How often do participants in the eldercaring coordination process meet with the EC?

Eldercaring coordination may continue for up to two years to assist with the transitions that families may experience in caring for an ageing person. Sessions are scheduled according to the unique needs of each family to help resolve non-legal issues, without the delays and lack of privacy experienced in court. Session frequency decreases when family members can productively communicate to develop and implement an ageing person's care plan. The EC remains available so that the family can address non-legal issues as needed without returning to court.

Who developed the Guidelines for Eldercaring Coordination?

The Guidelines for Eldercaring Coordination were developed by the Association for Conflict Resolution Task Force and the twenty organizations that composed the Florida Chapter of the Association of Family and Conciliation Courts Task Force. This was a ground-breaking collaboration of national and international organizations to improve the lives of ageing persons and families involved in high conflict litigation.

ACR TASK FORCE MEMBERS



Alternative Dispute Resolution Institute of Canada
American Association for Marriage and Family Therapy
American Bar Association Commission on Law and 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
Elder Justice Coalition
National Academy of Elder Law Attorneys
National Adult Protective Services Association
National Aging Life Care Association
National Association of Area Agencies on Aging
National Association of Social Workers
National Center for State Courts
National Committee on the Prevention of Elder Abuse
National College of Probate Judges
National Council of Juvenile and Family Court Judges
National Guardianship Association
National Guardianship Network

I heard that this project is being researched. Why is research important?

Ongoing research by an independent team at Virginia Tech University ensures that appropriate eldercaring coordination practices are being developed and implemented to meet the needs of ageing persons, their families and the court. Eldercaring coordination participants are asked to complete a survey when entering the eldercaring coordination process and again at the end of the process. These anonymous surveys are shared with the research team to help improve eldercaring coordination. Participants' confidential feedback can make a positive impact for other families who will participate in the process.



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**Association for Conflict Resolution (ACR)
Elder Justice Initiative on Eldercaring Coordination**

**FREQUENTLY ASKED QUESTIONS
FOR ATTORNEYS, GUARDIANS AND OTHER PROFESSIONALS**

Why shouldn't these families just go to mediation?

While many families can resolve their issues through mediation, high conflict families are unable to concentrate on the issues at hand. These are the cases appropriate for eldercaring coordination, where specially trained Eldercaring Coordinators (ECs) help families manage conflict, reduce tension, and overcome entrenched hostilities. Families may use mediation after participating in eldercaring coordination when they are better able to focus on the issues impacting their ageing loved one.

Should everyone be represented by counsel during the eldercaring coordination process?

The EC's role is to remove the adversarial perspective from the process of making decisions for the care and safety of an ageing loved one. While participants in eldercaring coordination may have an attorney, attorneys are not required. Eldercaring coordination is intended to be a confidential process, meaning that what is discussed during sessions is not to be offered as evidence at any court proceeding. Attorneys may be invited by the EC to attend sessions, with the understanding that their approach will be collaborative.



How is eldercaring coordination initiated?

Eldercaring coordination begins with a Court Order of Referral to an Eldercaring Coordinator, after which an Administrator will assign the EC. Once the EC and family members make contact, the EC conducts an intake to plan for the process and help the participants feel safe and comfortable.

Then what happens?

After the intake, the EC helps family members reduce conflict and focus on the needs, wishes, care, and safety of the ageing person. The EC helps the family develop and implement a care plan that is flexible enough to change with the needs of the ageing person and family members. Solutions focus on family strengths to provide for the ageing person's needs. Once family members begin to collaborate, they are better able to work with other resources to care for their ageing loved one. Through the process of eldercaring coordination, families can save time and money, preserve their privacy, elevate the ageing person's dignity, and pass on a legacy of peace to future generations.



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**ASSOCIATION FOR CONFLICT RESOLUTION GUIDELINES
FOR ELDERCARING COORDINATORS**

with Foreword by Linda Fieldstone,
Sue Bronson, and Hon. Michelle Morley

On November 6, 2014, the AFCC Board of Directors endorsed the Association for Conflict Resolution (ACR) Guidelines for Eldercaring Coordination, including ethical principles for Eldercaring Coordinators, training protocols, and court pilot project template. The collaboration between Task Forces created by ACR and the Florida Chapter of AFCC, composed of twenty U.S./Canadian and twenty Florida-wide organizations, produced both an overarching guide to assist in the development of programs and a more detailed model addressing state/province-specific needs and characteristics. Eldercaring coordination is a dispute resolution option specifically for high-conflict cases involving the care, needs, and safety of elders.

Key Points for the Family Court Community:

- There are currently no dispute resolution options for parties involved in high-conflict cases regarding the care, needs, and safety of an elder.
- The ACR Guidelines for Eldercaring Coordination address the discrepancies between dispute resolution options available for parents in conflict regarding their minor children and mature families with unresolved concerns about the care, needs, and safety of an elder.
- The ACR Guidelines for Eldercaring Coordination provide information regarding the ethical practice of eldercaring coordination including a specific definition, recommended qualifications, ethical practices, grievance procedures, training protocols, and a court pilot project template.
- The practice of eldercaring coordination will address the influx of court cases expected as baby boomers continue to age, reducing delays in court hearings, as parties will have the opportunity to resolve their concerns without continuous court attention.
- As of June 2015, five states began Pilot Projects on Eldercaring Coordination, which will be studied by an independent research group to enhance the progress of the process and to develop the best practices for initiating the programs elsewhere.

Keywords: *Aging; Dispute Resolution; Elder Court Programs; Elder Mediation; Elders; and High-Conflict Families.*

FOREWORD

On November 6, 2014, the Association of Family and Conciliation Courts (AFCC) Board of Directors endorsed the Association for Conflict Resolution Guidelines for Eldercaring Coordination (ACR Guidelines), acknowledging that families do not age out of need as they mature. According to the Federal Interagency Forum on Aging-Related Statistics (2012), the numbers of elders is anticipated to double in the United States between 2008 and 2030, as baby boomers continue to reach 65 years old and beyond. Accordingly, the influx of court cases pertaining to the care, needs, and safety of elders is expected to increase significantly. Unlike parents with children of minor age, who have parenting coordination as a dispute resolution option, there is no comparable alternative for more mature families in high conflict involving issues regarding an elder. To address this issue, a groundbreaking collaboration ensued between the Florida Chapter of the AFCC (FLAFCC) and the ACR, where each formed a Task Force on Eldercaring Coordination composed of 20 statewide and 20 U.S./Canadian organizations, respectively (see Appendix A and Appendix B for list of organizations

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and representatives for each Task Force). The mission of the Task Forces was to use parenting coordination as a model “to develop a dispute resolution option specifically for high conflict cases involving issues related to the care and safety of elders in order to complement and enhance, not replace, other services such as provision of legal information or legal representation, individual/family therapy, medical, psychological or psychiatric evaluation, or mediation.”

In 2013, Linda Fieldstone, Past President of AFCC, former President of FLAFCC, and Secretary of the AFCC Task Force on Parenting Coordination (which developed the Guidelines for Parenting Coordinators in 2005), received support from the Elder Section of ACR, as well as the leadership of FLAFCC, to assist her with this project. Parenting coordination arose independently across the United States and Canada without any standardization or even awareness between parenting coordinators and programs. To address those issues, Fieldstone first attempted to ascertain if a similar practice or court program already existed that addressed high-conflict cases with elders. The National Council of Juvenile and Family Court Judges assisted her in the search and found no similar court-connected practices or court programs. Fieldstone then approached AFCC, and Executive Director Peter Salem validated that Sue Bronson, family and elder mediator and trainer and then Co-Chair of the ACR Elder Section, would be a wonderful partner to assist her in this endeavor. On the local level, Fieldstone approached FLAFCC President Judge Sandy Karlan, who received unanimous backing from her board to support this project. FLAFCC was the driving force behind the development of parenting coordination in Florida and convened its Parenting Coordination Task Force, which led eventually to statutory legislation, Family Court Rules of Procedure, and Supreme Court Administrative Order for Parenting Coordination. Judge Michelle Morley was appointed as co-chair of the Eldercaring Coordination Task Force because she was very familiar with parenting coordination as a circuit court judge in rural Sumter County, Florida, and also because she presided in guardianship cases involving elders and caregivers.

The vision was that both the FLAFCC and ACR Task Forces for Eldercaring Coordination would be comprised of Florida-specific and U.S./Canadian organizations, with advisory committees of experts in related fields. Their initial goal was to engage 9 organizations each, but the interest was so great that the number of member organizations for each Task Force quickly rose to 20. It appeared that other organizations’ leadership also recognized how high-conflict family dynamics may jeopardize the safety and well-being of the elder, delay medical treatment and court processes, affect compliance with court orders, and undermine the effectiveness of guardianship and other designations by the court. Moreover, they perceived the growing need to address high-conflict issues concerning elders with less adversarial court processes, whenever possible. In comparison to elder mediation, which addresses issues between parties in the resolution process, the eldercaring coordinator (EC) would serve cases in which the conflict is so enmeshed between the parties that they are not able to focus productively on the issues at hand. The EC concentrates on managing the conflict, enabling the parties to proceed more effectively and work with the community resources available to assist the elder and caregivers.

The two Task Forces worked concurrently and collaboratively since their first separate meetings in June 2013. The ACR Task Force provided the overarching framework needed to serve as a guide for states and provinces to develop Eldercaring Coordination Programs, and the FLAFCC Task Force demonstrated how that framework could be honed according to an individual state’s needs and characteristics. It is important to emphasize the benefits of this collaboration. Each Task Force raised different points in discussions that altered the work of the other. Additionally, information gathered or created in one Task Force was shared at each step to provide a foundation for discussion and adoption when possible to reduce the workload of the other.

The Task Force work was divided into three stages, with Stage One focused on the development of the ACR and FLAFCC Guidelines. The result was a work product of each Task Force that includes:

1. Ethical Guidelines for Eldercaring Coordination, including definitions and qualifications;
2. Recommended Complaints/Grievance Procedure;
3. Eldercaring Coordination Training Guidelines and Protocols;
4. Court Pilot Project Proposal Template, including recommended complaints procedure, standardized Order of Referral, and eldercaring coordination forms; and

5. Eldercare Coordination Project Assessment Tool/Pre- and Postsurveys for Elders, other participants, and the EC.

The complete ACR Guidelines, including the Pilot Project Template, can be found at <http://acrelidersection.weebly.com/>. The FLAFCC Guidelines for Eldercare Coordination are posted on their Web site at www.FLAFCC.org.

Stage Two involves implementation. Sites for pilot projects throughout Florida as well as in the United States and Canada have shown interest. As of June 2015, five states including Florida, Idaho, Indiana, Minnesota, and Ohio initiated their programs in September 2015, and there are future possibilities in Delaware, Georgia, Louisiana, Oregon, North Dakota, Texas, Toronto, Tennessee, Wisconsin, and Virginia. The pilot sites are using the Pilot Project Template found in the complete version of the Guidelines as their guide to procedures and protocols, as well as court forms and orders. Moreover, opportunities to work with state Elder Protective Services are being developed, such as in the eight Florida circuits participating as pilot sites, in order to further enhance the programs and provide safety precautions for the elders participating. Each initial pilot project designated three potential ECs, who have attended the ACR Inaugural Training for Eldercare Coordinators, hosted by the Ohio Supreme Court, which also involved an evaluation component so that revisions can be made to the training protocols included in the ACR Guidelines as necessary; a state-specific inaugural training was hosted by FLAFCC in Orlando, Florida. Additionally, an independent research team, including Pamela Teaster Ph.D., of the Center for Gerontology of Virginia Polytechnic Institute and State University; Sally Hurme, Project Advisor on Education and Outreach of the Association of American Retired Persons; and Marsha Kline Pruett, Resident Faculty, Smith College, are developing the survey templates to provide ongoing research throughout the project and enhance its delivery process to better inform benefits for the participants and the court. Stage Three will involve a reassessment of the work product and consultation and formation of support systems as needed.

ACR RESOLUTION GUIDELINES FOR ELDERCARE COORDINATION OVERVIEW

Eldercare Coordination focuses on reducing conflict and court involvement so the elders, family members, and other participants are able to focus productively on the issues related to the needs and safety of the elder and to work collaboratively with others in the support network that provides legal advice and social and medical care and guidance.

The process of eldercare coordination has been developed to:

- Help manage high-conflict family dynamics so that the elder, family, and stakeholders can address their nonlegal issues independently from the court;
- Ready the elder and family to work with others in their support network to address the care and needs of the elder, avoiding delays and resulting in better decisions;
- Promote the self-determination of the elder to the extent of his/her ability as fully as possible;
- Promote safety by monitoring situations at high risk for abuse or neglect;
- Provide a support system for the elder and family during times of transition; and
- Free precious judicial time by addressing matters for which other dispute resolution processes have been unavailable or ineffective.

DEFINITION OF ELDERCARE COORDINATION

Eldercare coordination is a dispute resolution process during which an EC assists elders, legally authorized decision makers, and others who participate by court order or invitation to resolve disputes with high conflict levels that impact the elder's autonomy and safety by:

- Enabling more effective communication, negotiation, and problem-solving skills;
- Offering education about elder care resources;
- Facilitating the creation and 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.

QUALIFICATIONS OF ELDERCARING COORDINATORS (ECs)

ECs have varied professional backgrounds, including jurisprudence, social work, psychology, marriage and family therapy, mediation, parenting coordination, and geriatric care management, but share an expertise in helping elders and families resolve high-conflict disputes involving issues related to the care and needs of elders. Because the role of the EC may include decision-making authority for how the resolution to a conflict is addressed, it is crucial that the court appoint only those professionals who are qualified. These professionals would have training to ensure best practices are maintained, including the use of ongoing screening to ascertain the elder's understanding of the process and identify any potential safety concerns and the possibility of abuse, neglect, coercion, fraud, and exploitation of the elderly.

To ensure that services are provided by qualified professionals, credentials were identified that include academic knowledge, substantial conflict resolution skills, and extensive practical experience.

1. An EC shall be licensed or certified by a regulatory body of a jurisdiction, state, or province, with at least a master's degree and all of the following:
 - a. Completion of *family mediation training* certified or approved by the circuit, state, or province or commensurate with the objectives established by the ACR Resolution;
 - b. Completion of *elder mediation training* certified or approved by the circuit, state, or province or commensurate with the objectives established by the ACR;
 - c. Completion of *Eldercaring Coordination Training* certified or approved by the circuit, state, or province or commensurate with the objectives established by the ACR; and
 - d. Extensive practical experience in a profession relating to high conflict within families.
2. An EC shall be psychologically and cognitively able to perform the requirements of the EC role and have no situation, condition, impairment, or disorder that prevents the ethical, responsible, and effective exercise of the EC role.
3. An EC must decline a case, discontinue service, and immediately report to the court and the parties if any disqualifying circumstances as noted above occurs or if s/he no longer meets the minimum qualifications.

RESPONSIBLE PRACTICE OF ELDERCARING COORDINATION

The EC's primary responsibility is to the elder. At the same time, the EC must develop and maintain good working relationships with family members and other professionals involved in the elder's care. In addition, the EC supports the well-being and safety of elders within complex systems of public and private social services, legal services, and health care providers. To perform these varied functions, the EC must be trustworthy and accountable to everyone involved in the eldercaring coordination process and at all times follow the legal and ethical requirements that govern his/her professional practice. The EC should also continue to expand his/her professional knowledge and skills and cultural competence, and strive to understand how the larger societal issues affect elders and families.

The ACR Task Force recognizes that each EC is guided by the ethical code, practice standards, and scope of practice for his/her respective profession. Therefore, the Task Force has applied the core ethical principles common to most human service professions to the EC role and addressed the following two broad aspects of the ethical practice of eldercare coordination:

1. Unique considerations in working with the elder population; and
2. Tasks and functions specific to the role of EC.

These Guidelines are aspirational in nature and serve as guidance to courts and programs interested in implementing eldercare coordination as a viable dispute resolution process for high-conflict cases involving elders. Ethical behavior requires more than just avoiding wrongdoing or resolving complaints. These Guidelines were developed to help the EC understand and follow relevant ethical principles. Professionals considering becoming or serving as ECs can find the best practices and ensure their proper training to facilitate the process most effectively. Additionally, the Guidelines and training protocols provide quality control and protection for the consumer as they include minimal expectations for conduct and best practices for the EC.

FOUNDATIONAL ETHICAL PRINCIPLES OF ELDERCARE COORDINATION

1. AUTONOMY

Autonomy is defined as self-determination; respect for elders' rights and dignity; and the right of elders to be self-governing within their family and social system and cultural framework.

Every adult has the right to make his/her own life decisions, unless adjudicated by a court to not have the ability to make certain decisions. Even after court adjudication, the adult has the right to be included in the decision-making process to the extent of his/her ability. The EC shall promote the self-determination of the elder as fully as possible within the context of the eldercare coordination process. The EC has a responsibility to assist the elder in articulating his/her goals, needs, and preferences so that these can be incorporated into the plan of care to the greatest extent possible. The EC is aware of potential conflicts that may arise when balancing the benefits and risks of interventions being considered and shall strive to ensure that the elder's choices are respected and accommodated as fully as possible.

The EC shall respect the rights and dignity of the elder and shall strive to balance the elder's autonomy with the need for protection and safety. Unless an elder's decision will cause harm to him/herself or others, the preferences expressed by the elder should be followed even when others, including the EC, do not agree with those decisions.

Regardless of the elder's decisional capacity, the EC shall involve the elder, to the greatest extent possible, in decisions that impact the elder's life. The elder should be the primary decision maker in all eldercare coordination issues, unless a court has appointed a surrogate decision maker. In situations where a surrogate decision maker (such as a guardian or conservator) has been appointed, the EC shall facilitate the ability of elders to make their goals, needs, and preferences known and to have them seriously considered.

If questions regarding the elder's decisional capacity exist, s/he should be evaluated by a professional, other than the EC, who is competent to make that determination. If the elder does not comprehend the factors involved in the decision-making process and therefore cannot make a competent decision, the EC shall ensure that all decisions concerning the elder are made by the person(s) with the legal authority to do so, striving to ensure that the elder's goals, needs, and preferences are represented and that the elder is in the center of the decision making.

The EC shall strive to facilitate clear communication with elders and families, including the use of professional interpreters when needed, to ensure that the elder's goals, needs, and preferences are understood and accommodated to the fullest extent possible. Family members, or any individual significantly involved in an elder's living situation, should not be relied upon to interpret language.

The EC shall promote person-centered service delivery by communicating with the elder to the greatest extent possible. When such communication is limited, the EC shall strive to keep the elder's goals, needs, and preferences at the center of the process. The EC shall maintain open and respectful communication with legally authorized decision makers and others participating in the eldercaring coordination process. The EC shall ensure that the specific information needed by the elder and/or designated decision maker to make informed decisions (such as the potential risks and benefits of all options) is presented and understood, that the elder and/or designee consents to services, and that the elder's or designee's right to discontinue services at any time is respected.

2. BENEFICENCE

Beneficence is defined as doing good to others and promoting the well-being of eldercaring coordination participants.

The EC has a professional obligation not only to avoid harm to any party in the course of the eldercaring coordination process, but also to conduct the process with close attention to the interests of all parties. The EC shall promote the elder's goals, needs, and preferences in such a manner as to maximize the benefit to the elder while avoiding harm to the elder or others.

In situations in which harm could come to others as a result of a contemplated action or decision by the elder, the EC shall take reasonable steps to explain to the elder the risk of harm and shall attempt to mitigate that risk. If this effort is unsuccessful, the EC will not assist the elder in carrying out a decision or action that poses a threat of substantial harm to the elder or to others.

While the EC shall maintain impartiality in the process of eldercaring coordination, the EC is not neutral regarding the outcome of particular decisions and shall strive for outcomes that promote the well-being and safety of the elder. Impartiality means the freedom from favoritism or bias in word, action, or appearance and includes a commitment to assist all parties.

3. COLLABORATION

Collaboration is defined as working together cooperatively in the interest of achieving shared goals.

Eldercaring coordination entails collaboration on three levels: between the EC and participants in the eldercaring coordination process, among eldercaring coordination participants, and between the EC and other service providers. The EC shall strive to promote such collaborations on behalf of the elder served. The EC recognizes that misunderstandings, differences of opinion, and lack of communication often underlie conflicts regarding elders' care. Impasses may be reached when an elder's preferences conflict with those of legally authorized decision makers and other eldercaring coordination participants, when decision makers and other participants disagree about the best approach to eldercare, or both. The EC endeavors to facilitate communication and, if needed, care planning among all participants (including the elder) in the eldercaring coordination process.

The process of eldercaring coordination often involves interdisciplinary and interorganizational collaboration on behalf of the elder. Thus, the EC may facilitate communication among existing service providers or help participants in the eldercaring coordination process develop relationships with new service providers. In such instances, the EC shares information judiciously and only as authorized, safeguarding confidentiality, privacy, and privileged communications as appropriate.

The EC shall strive to develop and maintain professional and cooperative relationships with all other professionals involved in the eldercaring coordination process. Eldercaring coordination is interdisciplinary in nature and typically involves collateral contacts with other professionals who have knowledge of, or provide services to, the elder or family members. The EC shall strive to develop and maintain collaborative relationships with other professionals who provide services to the elder, including those in the legal, medical, mental health, and social service communities, in the interest of promoting the continuity and effectiveness of the eldercaring coordination process.

4. PROFESSIONAL COMPETENCE

Professional competence is defined as possessing the requisite skills, knowledge, and ability to provide efficacious services.

The practice of eldercaring coordination requires the acquisition and application of specialized knowledge, skills, and expertise in dispute resolution/conflict resolution, dynamics of family systems and aging, and familiarity with legal requirements relevant to eldercaring coordination. The EC also needs to recognize the presence of mental health, cognitive, or other issues affecting the elder's capacity to provide informed consent to participation in the eldercaring coordination process and ability to represent his/her own goals, needs, and preferences in that process to ensure his/her care and safety. The EC shall strive to continue to acquire additional specialized knowledge through activities, such as continuing education and case-specific consultation. The EC shall also strive to understand legal authorities, terminology, and procedures that affect eldercaring coordination practice.

The EC shall be qualified by education, training, and skills to undertake the EC role and shall continue to develop professionally in the role. Because eldercaring coordination is a complex process involving multidisciplinary areas, the EC must stay abreast not only of developments within his/her profession, but also of a wide range of knowledge relevant to the execution of the role of EC.

If the EC has limited experience or knowledge in the matters that impact a specific case, the EC must be prepared to develop further expertise in order to effectively handle the specific case. Such enhanced expertise may result from consulting other professionals, continuing education, and reviewing treatises and other reference materials. The EC shall request appropriate assistance in the case, decline an appointment, or withdraw from a case when the facts and circumstances of the case are beyond the EC's skills or expertise and the EC cannot, in a timely manner, develop the specific competency and expertise that is required.

The EC shall be psychologically and cognitively able to perform the requirements of the EC role as noted in minimum requirements above.

5. FIDELITY

Fidelity is defined as honoring commitments, keeping promises, and respecting the trust placed by eldercaring coordination participants in the service provider.

Meeting the duty of fidelity requires far more than simply performing the professional services to which the EC is contractually obligated or for which the EC makes verbal promises. It means recognizing and meeting the responsibilities of the primary profession of the EC and demonstrating loyalty to the elder involved in the eldercaring coordination process.

The EC shall be trustworthy and dependable in all aspects of both professional and business relationships. The EC shall maintain confidentiality, avoid conflicts of interest, and always pursue the best interests of elders.

The EC shall facilitate the participants' understanding of the eldercaring coordination process so that they can give informed consent to the process.

The EC shall avoid conflicts of interest that interfere with the ability to promote participants' interests and which may result in an actual, apparent, or potential benefit to the EC. Moreover, the EC shall not engage in dual or multiple roles with any eldercaring coordination participant.

6. INTEGRITY

Integrity is defined as providing services with trustworthiness; veracity; and adherence to professional, ethical, and legal requirements.

Integrity means that the EC shall be honest, diligent, and accountable in the provision of service and shall act in a manner consistent with the values reflected in his/her professional ethical code(s). The EC shall be familiar with sources of ethical and professional guidance that may be relevant to

the provision of eldercaring coordination services, including professional practice standards and laws relevant to eldercaring coordination.

Integrity involves both understanding and fulfilling the duties associated with the EC role and abiding by the limitations and scope of the role. The EC shall endeavor to understand the EC role, including sources of authority and appropriate activities, in order to maintain professional boundaries and avoid incorporating clinical, forensic, or legal practices that are beyond the scope of the EC's role.

7. JUSTICE

Justice is defined as nondiscrimination, being fair in the treatment of all eldercaring coordination participants, providing appropriate services to all.

The EC shall act in a just and fair way in all professional relationships. The EC shall not promote or sanction any form of discrimination based on age, race, ethnicity, family status, gender, gender expression, gender identity, spirituality or religion, sexual orientation, national origin, disability, socioeconomic status, or other factors.

The EC shall provide equitable service to all participants in the eldercaring coordination process, without regard either to cultural and linguistic factors or to each participant's financial contribution to the eldercaring coordination process. The EC shall provide a forum for each participant's views while upholding the goals, needs, and preferences of the elder.

Throughout the eldercaring coordination process, the EC shall consider how ageism and other forms of social injustice affect elders and eldercare. Such injustice may be manifested in multiple ways, including disregard of elder's goals, needs, and preferences; economic and health disparities; decreased access to information, resources, and services; and elder abuse or neglect. The EC shall endeavor, within the limits of both the EC's role and his/her professional discipline, to mitigate such injustice.

The EC shall promote access to information, resources, and services that may enhance the well-being of the elder and support other eldercaring coordination participants in their caregiving roles.

When disputes pertaining to eldercare arise during the eldercaring coordination process, the EC shall attempt to resolve issues and reduce conflict among all participants—ideally, by reaching agreement—in a timely manner. When participants are unable to reach agreement and if it has been ordered by the court or authorized by consent, the EC shall decide the disputed issues.

8. NONMALEFICENCE

Nonmaleficence is defined as avoiding harm to others.

The principle of nonmaleficence directs the EC to act in such a way that causes no harm to others. In particular, the EC shall not cause avoidable or intentional harm and shall avoid subjecting any party in the eldercaring coordination process to unnecessary risk of harm.

Types of harm range from physical and emotional injury to deprivation of property or violations of rights. The experience of harm can be subjective and situations may arise in which some types of harm seem inevitable. For example, an older person may find it necessary to give up some measure of independence in the interest of maintaining his/her personal safety and security. In such cases, when one harm may be imposed in order to avoid a greater harm, the EC shall strive to choose the lesser of the possible harms. To the extent possible, the EC shall facilitate the elder's choice in such matters, for each elder can best determine which harm seems the greater or lesser harm.

The EC shall aspire to facilitate healthy environments for elders and constructive relationships between elders, their families, and care providers, while ensuring the safety of all participants in the eldercaring coordination process. If the elder has been abused, the case may present substantial safety risks or power imbalances and may not be appropriate for eldercaring coordination. The EC shall report all matters of actual, suspected, or potential harm to the proper authorities (law enforcement, protective services, etc.) as directed in his/her profession's code of ethics and/or the law of his/her state, province, or jurisdiction.

9. CULTURAL COMPETENCE

Cultural competence is defined as providing culturally informed and responsive services that accommodate the elder's communication requirements, not simply as cultural awareness and respect.

Culture is an "integrated pattern of human behavior that includes thoughts, communications, languages, practices, beliefs, values, customs, courtesies, rituals, manners of interacting and roles, relationships and expected behaviors of a racial, ethnic, religious or social group; and the ability to transmit the above to succeeding generations" (National Center for Cultural Competence, 2006).

The EC recognizes that every interaction with elders, other eldercaring coordination participants, and other service providers constitutes a cross-cultural interaction. Therefore, the EC shall exercise cultural and linguistic competence throughout the eldercaring coordination process, including communicating in a manner that is easily understood by participants in the eldercaring coordination process, using plain language and incorporating professional interpreters, professionally translated materials, and assistive devices as needed. The EC regularly evaluates and, as needed, modifies eldercaring coordination services to enhance cultural and linguistic accessibility and responsiveness to clients.

The EC strives to recognize and respond to relevant sources of professional guidance in regard to multicultural and diversity issues in the provision of eldercaring coordination services. Lack of awareness of these issues may influence the EC's professional judgment and decision making. The EC shall develop and maintain awareness of, respect for, and responsiveness to the diversity of families' cultural contexts. Specifically, the EC shall consider how factors and personal biases pertaining to age, gender, gender identity, sexual orientation, family status, race, ethnicity, culture, spirituality or religion, disability, language, and socioeconomic status influence both the parties' and the EC's values and expectations regarding family dynamics and eldercaring coordination. The EC shall endeavor to understand expectations and behaviors regarding eldercaring practices that are based in frameworks different from their own and to integrate this knowledge into their interventions.

TRAINING MODULES AND TRAINING PROTOCOLS FOR ELDERCARE COORDINATION

In order to attain the goal of ensuring a high level of proficiency in the performance of EC, the following training guidelines have been developed. This guide contains two components, the first includes the learning objectives and the second is how the training should be conducted.

PART I: LEARNING OBJECTIVES

These training objectives are recommended to orient professionals qualified by their states or jurisdictions to the issues and skills necessary to enter the practice of eldercaring coordination.

1. Eldercaring Coordination Concepts

- (a) Define eldercaring coordination as a dispute resolution process and describe potential benefits for elders, their families, other stakeholders, and courts.
- (b) Explain the definition of eldercaring coordination in any applicable law and any court rules of procedure.
- (c) Discuss the source(s) of authority for the eldercaring coordination process.
- (d) Describe the roles and functions of an EC, including the activities of the EC:
 - (i) Facilitating more effective communication, negotiation, and problem-solving skills;
 - (ii) Offering education regarding elder care resources;
 - (iii) Facilitating the creation, modification, or implementation of an eldercare plan;
 - (iv) Making recommendations for resolutions; and

- (v) Making decisions within the scope of a court order or with the parties' prior approval.
- (e) Identify how the role of an EC differs from other types of roles supporting elders and their families in conflict such as legal services, mediation, geriatric care management, guardianship, guardian ad litem, power of attorney, family substitute decision maker, medical surrogacy, or family counseling.
- (f) Discuss the professional guidelines and standards that guide the practice of eldercaring coordination.

2. Elder Law Pertaining to the Eldercaring Coordination Process

- (a) Detail the specific legislation, as well as court procedures, relevant to elders in your circuit or jurisdiction that are pertinent to the eldercaring coordination process.
- (b) Describe how the parameters of the law relate to the eldercaring process and the role of the EC.
- (c) Clarify the roles of those with joint or sole authority with regard to financial and health care decision making for the elder.
- (d) Explain the responsibilities and powers when guardianship is ordered by the court.
- (e) Describe the legal concepts that relate to the eldercaring coordination process including, but not limited to: due process, ex parte communications, relocation, and privilege.
- (f) Explain the statutory constraints of eldercaring coordination where domestic violence exists and/or protective orders have issued by the court.
- (g) Describe when and how the EC should interface with the court system.
- (h) List the procedures to follow when requested to provide testimony or evidence.
- (i) Describe the EC's responsibilities to the court.

3. Capacity Considerations for the Eldercaring Coordination Process

- (a) Explain legal and medical perspectives of capacity and its relevance to eldercaring coordination.
- (b) Explore the elder's as well as other participants' ability to participate in the eldercaring coordination process.
- (c) Describe and demonstrate screening for the capacity to participate in the eldercaring coordination process and how to respond appropriately, while avoiding a dual role inherent in performing a broader screening for or assessment of capacity, which should be done by a qualified professional who is not acting as an EC.
- (d) Identify strategies to creatively enhance each person's capacity to engage fully in the eldercaring coordination process.
- (e) Explain the presumption that the elder participates in all cases to the extent possible.
- (f) Discuss ways to incorporate the expressed wishes and current, as well as long-standing values, of an older person if s/he is not able to participate fully in the process.

4. The Eldercaring Coordination Process

- (a) Explain the processes of voluntary referral to eldercaring coordination and court-ordered referral to eldercaring coordination and potential differences between the two.
- (b) Identify and explain the components of a (Ratified) Order of Referral or Stipulated Agreement for Eldercaring Coordination.
- (c) Identify all of the parties that could potentially be involved in the eldercaring coordination process, including, the elder, legally authorized decision makers, and invited parties.

- (d) Explain the importance of the written professional services agreement, including the elements that need to be included in the written agreement between the parties and the EC that describe the EC's services.
- (e) Discuss affordability issues regarding eldercare coordination, description of fees and other costs, options for fee allocation, and implications of affordability issues.
- (f) Explain the possible screenings for capacity to participate in the eldercare coordination process that is to take place as part of the intake and how to implement ongoing screening on a periodic basis in order to identify characteristics of individuals who may not continue to be appropriate to participate in the eldercare coordination process.
- (g) Identify other screenings that may need to be performed by qualified professionals to assess a substance use disorder, mental health, or health care condition.
- (h) Identify other logistical factors that might influence or enhance the eldercare coordination process, including, but not limited to, accessibility to attend a meeting location, proximity of bathrooms, break times, beverages, snacks, or meals.
- (i) Explain how to structure the eldercare coordination process from screening and intake, through orientation, meetings, and outcome possibilities.
- (j) Detail components of the orientation process for eldercare coordination, explaining the process directly with participants and explaining the concepts that must be disclosed in writing to the parties.
- (k) Explain the importance of obtaining written acknowledgment by the parties that the EC, in person, reviewed the terms of the Order of Referral, described the process and the role of the EC, and notified the participants in writing of the information that must be disclosed.
- (l) Identify collaterals and the development of a collaborative team to enhance the eldercare coordination process. Clarify the EC's role, responsibilities, limitations, and communication protocols within that context.
- (m) List possible options for scheduling meetings at appropriate intervals to allow for reassessments of parties, progress of the eldercare coordination, and possible venues to consider; if meeting separately with parties, explain considerations for when joint appointments would be appropriate provided there are no safety concerns.
- (n) Detail protocols for eldercare coordination meetings logistics and interventions, including, but not limited to, scheduling of appointments, communication protocols, and documentation.
- (o) Detail the procedures of each eldercare coordination meeting, including, but not limited to, creating an agenda, handling emergencies, maintaining balance, and reassessment of conflict.
- (p) Discuss how to appropriately interface with the court to request clarification or direction if necessary in furtherance of the eldercare coordination process, to request a hearing if issues of safety arise, or to request termination of the process if the process was court ordered.
- (q) Explain how to assess phases of the eldercare coordination process as it progresses, including data gathering, conflict resolution, maintenance, and termination.
- (r) Assess the needs of the client system with specific focus on the voice, risks, and lifestyle preferences of the elder and the participants' past and current relationships with the elder and between each other.
- (s) Assess productive procedures for facilitating eldercare coordination meetings depending on parties' relationships and abilities to communicate with one another, including the need for initial and interim private meetings and caucuses, and meetings by phone, electronically, or in person.
- (t) Identify components of the eldercare plan as possible outcomes of the process, including, but not limited to, how the elder and parties will continue to address and resolve conflict, who might assist them, their resource and support team, their goals to continue after the process is completed, procedure for decision making, and the division of responsibilities to carry out goals.

- (u) Describe factors that may enhance or undermine the effectiveness of the eldercaring coordination process.

5. Ethical Considerations Pertaining to Eldercaring Coordination

- (a) Identify the foundational Ethical Principles for Eldercaring Coordination described in the ACR Guidelines for Eldercaring Coordination: autonomy, beneficence, collaboration, professional competence, fidelity, integrity, justice, nonmaleficence, and cultural competence.
- (b) Explain the ethical value of a person-centered service provision that underlies the eldercaring coordination process.
- (c) Identify ethical issues that might arise at any point in the eldercaring coordination process: person-centered/primacy of the elder's interests, self-determination, informed decision making, coordinator neutrality, confidentiality, conflicts of interest, elder abuse, and professional boundaries.
- (d) Identify common ethical dilemmas that might arise in the eldercaring coordination process and how to resolve them.
- (e) Discuss policies and procedures that support an ethical practice as an EC.
- (f) Discuss the ACR Guidelines for Eldercaring Coordination.

6. The Elder Adult Within the Context of the Eldercaring Coordination Process

- (a) Identify and explain an elder's unique developmental needs and their impact on caregiving and decision making.
- (b) Describe the interrelationship between physical challenges, mental declines, and psychosocial well-being of the elder and their possible effects on the eldercaring coordination process.
- (c) Describe societal and participants' biases and cultural attitudes regarding aging, including myths of aging and stereotype, and possible effects of such on the eldercaring coordination process.
- (d) Explain the effects of the elders' loss or potential loss of independence, including, but not limited to, their finances, driving, living arrangements, decision making, and possible effects of such on the eldercaring coordination process.

7. Family Dynamics Related to Elders Within the Context of the Eldercaring Coordination Process

- (a) Explain family systems, including, but not limited to, homeostasis, boundaries, enmeshment/disengagement, triangulation, collusion, communication styles, personality disorders, trauma histories, and how they relate to the eldercaring coordination process.
- (b) Explain family dynamics, including family of origin, unresolved past, relationships and emotion, power and influence, and how these factors relate to the eldercaring coordination process.
- (c) Detail significant transitional life changes of an elder and the possible impact on existing family dynamics and emotions of loved ones that may affect the eldercaring coordination process.
- (d) Discuss the unique and complex roles of family caregivers, professional and paraprofessional practitioners, substitute decision makers, and power of attorney and their relationship with the elder and clarify their impact on existing family dynamics that may affect the eldercaring coordination process.
- (e) Explain the intricacies inherent in multigenerational and blended families and their possible effects on the eldercaring coordination process.

- (f) Identify others who may be significant in the elder's life, how their roles may be interrelated to the elder, and how they may be helpful or hinder the eldercaring coordination process.
- (g) Explain possible effects of mental illness, substance use disorders, and other vulnerabilities in the family system, which could affect the eldercaring coordination process.
- (h) Explain how high-conflict families can impact the care of an elder as well as the eldercaring coordination process, including the role of the elder in creating, perpetuating, and/or responding to the conflicts that exist within the family system.
- (i) Explain the psychosocial effects when transitioning through terminal illness of a loved one, the grieving process, and establishing closure in order to provide a support system through the eldercaring coordination process.
- (j) Identify and be sensitive to the issues of culture, language, and spiritual needs of the family system in a highly diverse society.
- (k) Describe the impact of high-conflict family situations on an elder including, but not limited to, impact of alignments, estrangements, and alienation throughout the family system and during the eldercaring coordination process.
- (l) Identify characteristics, impasse styles, and patterns of interaction in high-conflict families that hinder conflict resolution and interventions to reduce conflict within the eldercaring coordination process.
- (m) Explain relevant psychological theories and social science research applicable to professional interventions for a family in eldercaring coordination.
- (n) Develop methods to improve communication between the elder and the other parties in order to meet the needs and enhance the safety of the elder.
- (o) Explain processes for obtaining information to facilitate resolution of disputes as they arise within the eldercaring coordination process.
- (p) Describe methods to encourage compliance with court orders.

8. Elder Abuse, Neglect, Exploitation, and Family Violence and Their Implications on the Eldercaring Coordination Process

- (a) Discuss the legal and nonlegal definitions of elder abuse, neglect, and exploitation, as well as interpersonal violence, and their context within the eldercaring coordination process.
- (b) List specific dynamics within the family and caregiving relationship that may contribute to elder abuse and neglect, exploitation, extortion, dependency, influence, coercion, control, threat, and duress, and their potential influence on the eldercaring coordination process.
- (c) Discuss the effects of elder abuse, neglect, and exploitation on relationship and family dynamics and the potential influence on the eldercaring coordination process.
- (d) Explain the importance of understanding the history of the relationships and family dynamics in recognizing coercive, controlling behavior and their effects on the eldercaring coordination process.
- (e) Explain the dynamics of perpetrators of abuse and the impact on the elder's abilities that could affect the eldercaring coordination process.
- (f) Discuss the implications of different types of abuse (i.e., elder abuse, neglect, extortion, exploitation, family violence, and substance abuse) and their possible impact on the ability of the elder and others to participate in the eldercaring coordination process.
- (g) Describe the unique problems and inherent dangers presented by family violence of all types in terms of establishing balance with the goals, needs, and preferences of the elder as priority, facilitating agreements between those involved in the eldercaring coordination process and the need for safety in the eldercaring coordination process.
- (h) Identify procedures for initial and/or ongoing screening for elder abuse, neglect, and exploitation, as well as family violence, and appropriate courses of action when safety parameters are needed.

- (i) Utilize a screening tool that identifies risk factors and the various ways they are manifested, such as power imbalances and safety issues that may impact the eldercaring coordination process.
- (ii) Explain the importance of monitoring adherence to the elder care plan.
- (iii) Explain the importance of employing safety precautions and interventions in the eldercaring coordination process, including the elder, family members, other stakeholders, and the EC.
- (iv) List appropriate precautions, safety interventions, and obligations when confronted with elder abuse and neglect, exploitation, family violence, substance abuse, and mental health issues within the context of the eldercaring coordination process.
- (v) Explain the limitations of confidentiality and the legal and ethical responsibility of the EC, as well as others that may be participating in the eldercaring coordination process, to report elder abuse, neglect, and exploitation.
- (vi) Explain the importance of reporting to a judicial officer, infractions of existing court orders, including the need to modify an eldercaring plan with the inclusion of safety parameters, using the appropriate forms for communicating to the court.
- (vii) Describe the process for terminating the eldercaring coordination process when continuing with the process would endanger the safety of those involved, including the EC.
- (viii) Detail when it is mandatory to report to the court regarding safety issues, including what constitutes reasonable cause to suspect the elder has or is being abused, neglected, or exploited or is expected to be or wrongfully removed from the jurisdiction of the court without prior approval of the court and what procedures are required when reporting emergencies to the court.
- (ix) Identify the specific statutes relevant to safety and protection of elders and how they apply to the eldercaring coordination process.

(Note: A minimum of 4 hours of instruction on safety relating to the eldercaring coordination process shall be offered integrated into eldercaring coordination training.)

9. Resources and Professional Supports for the Elder and Family as well as the Eldercaring Coordination Process

- (a) Explain how to include existing professional supports in the eldercaring coordination process such as attorneys, those authorized by the court with decision making discretion, doctors, nurses, professional guardians, and other health care professionals.
- (b) Identify additional professional resources that may assist with the planning, care, and well-being of the elder and support system, including, but not limited to, mediators, geriatric care managers, social workers, and patient advocates.
- (c) Explain how to work with legal, mental health (e.g., social workers, psychologists, marriage and family therapists), and other professional disciplines and promote cooperation among those dealing with the family and stakeholders.
- (d) Detail when and how to refer to and collaborate with a qualified expert and use a team approach to best serve the parties in the eldercaring coordination process.
- (e) Identify resources to assist in the caregiving of the elder and enhance financial, health care, and social service benefits.
- (f) Explore possible living arrangements or domicile, including those provided by family members (may include so-called “granny flats”), others in supportive roles, skilled nursing facilities, assisted living communities, and personal care homes.
- (g) List specific sources of referrals for parties.

10. Eldercare Coordination Techniques

- (a) Detail the characteristics and training that enhance or undermine the effectiveness of the EC.
- (b) Describe the need for appropriate accommodations for the eldercare coordination process and how the range of accommodations is used to enhance or support participation of the elder and by all parties.
- (c) Develop strategies for intervention with the elder and parties, including goals and time frames, within the eldercare coordination process.
- (d) Identify the concept of intractable conflict and discuss how to transform it into a framework more suitable for resolution of conflicts within the eldercare coordination process.
- (e) Explain elder care plan agreements and how to memorialize agreements between the parties during the eldercare coordination process.
- (f) Explain the procedure for having agreements ratified and incorporated as an order of the court during the eldercare coordination process.
- (g) Identify skills and parameters of decision making for the EC when more facilitative processes are ineffective; analyze when a more directive approach is needed or when more time or skill is needed for facilitative problem solving to be effective.
- (h) Create and modify an elder care plan, taking into consideration the elder's health, abilities, goals, needs, and preferences and the ideal integration of these elements to meet the best interests of the elder.
- (i) Select elder care plan elements that address different family circumstances, including, but not limited to, geographic distance, safety-focused parameters, high-conflict elements, and special needs of family members.
- (j) Develop strategies to assist the parties involved to implement their eldercare plan and court orders during the eldercare coordination process.
- (k) Identify appropriate boundaries of an EC, including establishing office safety policies and establishing appropriate limits for client demands.

PART II: TRAINING PROCEDURES FOR ECS

In order to attain the goal of ensuring a high level of proficiency in the performance of ECs, the following training guidelines are recommended:

1. Prerequisites for Training

Trainees are expected to meet the professional qualifications of ECs, as well as having completed a comprehensive family mediation training and training in elder mediation.

2. Focus of Eldercare Coordination as a Unique Interdisciplinary Process

The training should entail an integrated process for learning the concepts and skills to perform the duties of an EC, while building upon the knowledge already brought in by the trainees. To cover all the modules, the training will necessitate a minimum of 28 hours, although more time is encouraged to cover the objectives thoroughly.

- (a) The training should go beyond the general concepts and move to specifics in order to encompass all types of cases the EC may encounter.
- (b) The training should combine the new concepts through lecture and readings with experiential learning, application of the ideas, and feedback.
- (c) The key to a brief training is to integrate the specific and unique knowledge base needed for the trainee's future practice as an EC.

3. Training Methodology

- (a) **Pedagogy:** A complete eldercaring coordination training program should include, at a minimum, the following: lecture, group discussion, written exercises, simulations, and role plays. In addition, readings and other resources should be provided by the trainer to supplement the training.
- (b) **Role Play Requirements:**
 - (i) Elder caring coordination training should allow ample time for role plays to help the EC develop and practice skills that are specific to the process and the role.
 - (ii) At a minimum, every participant should participate in a role play of an eldercaring coordination session. The role play should be practical in time and scope.
 - (iii) At the conclusion of each role play, time should be allocated for self-reflection and oral or written feedback to the participants. Feedback to participants should be provided or supervised by the trainer.
 - (iv) Role play developers should consider role descriptions that suggest realistic ways of playing the older client and discuss biases that arise.
 - (v) Training should provide time to practice all stages of the eldercaring coordination process and should support ECs in gaining competence to facilitate discussions that include multiple generations, blended families, multiparties, high conflict, and ethical considerations.
 - (vi) Role-play debriefing should support reflection and a safe environment for learning and self-evaluation.

(Note: The ACR Elder Mediation Training Objectives has an Appendix attached to their work entitled “Mediation Skills Training: Best Practices,” which has a comprehensive list of points and concepts to help trainers present skill training through role play.)
- (c) **Simulation:** A complete eldercaring coordination training should present a role-play simulation of an eldercaring coordination session (either live or by video) prior to the participant’s role-play experience.
- (d) **Breaks:** Trainers should provide appropriate breaks during their training sessions, which should be in addition to the number of required hours for training.

4. Ethics

- (a) A complete eldercaring coordination training program should review eldercaring coordination ethics for at least 2 hours and include the ACR recommended Ethical Guidelines for Elder caring Coordination.
- (b) EC ethics should be woven throughout the training program and materials wherever applicable.

5. Primary Trainer Qualifications

- (a) **Primary Trainer:** A primary trainer should be present throughout the entire course.
- (b) **Primary Trainer Qualifications:** A primary trainer should demonstrate all of the following qualifications as stated in the guidelines:
 - (i) Meet the qualifications to be an EC.
 - (ii) Successful completion of an eldercaring coordination training that meets the ACR Elder caring Coordination recommendations for training.
 - (iii) Previous experience in training of other relevant topics, such as elder mediation or parenting coordination.
- (c) **Eldercaring Coordination Experience:** Serving as an EC in at least five cases lasting at least 6 months in duration, with a minimum of two active cases within the last 2 years.

- (d) Eldercaring Coordination Continuing Education: An eldercaring coordination trainer should complete a sufficient amount of continuing education in order to be current with rules, statutes, and research applicable to eldercaring coordination. Live attendance is preferable.

6. Use of Guest Lecturers

- (a) As an interdisciplinary process, the trainer should demonstrate collaboration and team work by inviting guest lecturers such as judges, attorneys, mediators, mental health professionals, psychologists, social workers, marriage and family therapists, domestic violence experts, health care providers, professional guardians, and geriatric care managers.
- (b) A guest lecturer should have a substantial part of his/her professional practice in the area about which the specialist is lecturing and should have the ability to connect his/her area of expertise with the eldercaring coordination process.
- (c) Lectures on elder law should be presented by a member of The State/Providence Bar with elder law experience.
- (d) Lectures on family dynamics and mental health and psychosocial issues should be presented by a qualified mental health professional (such as a social worker, psychologist, or marriage and family therapist).
- (e) Lectures on health and medical issues relating to elders should be presented by licensed physicians, nurses, and other medical professionals.

7. Course Content Requirements

- (a) Learning Objectives: A complete eldercaring coordination training should incorporate the learning objectives contained in Part I above.
- (b) Required Training Materials: At a minimum, trainers should provide each of the participants with the following written materials:
 - (i) An agenda annotated with the learning objectives to be covered in each section and
 - (ii) A training manual that includes basic information for each module, relevant statutes, court rules of procedure and administrative orders, forms, role-play simulations, additional resources, and other pertinent materials.

8. Completion of Training and Evaluation of Students

- (a) Participants should complete the eldercaring coordination training requirement by physically attending one entire live training program.
- (b) The primary trainer is responsible for ensuring that the integrity of each portion of the program is not compromised.
- (c) A training program should provide, at the conclusion of the training, written documentation of completion to participants who successfully complete the program.

9. Program Evaluation

At the completion of the course, each participant should complete a course evaluation that should be reviewed by the trainer as part of quality assurance.

10. Records Retention Policy

The primary trainer should be responsible for maintaining records of those who completed the program for no less than 5 years.

**APPENDIX A: REPRESENTATIVES OF THE ORGANIZATIONS COMPOSING THE
ACR TASK FORCE ON ELDERCARING COORDINATION**

(The indicated position is that held at the time the representative joined the ACR Task Force.)

CO-CHAIRS

- Sue Bronson, LCSW, Immediate Past ACR Elder Section Co-Chair
- Linda Fieldstone, M.Ed., Past President, AFCC

MEMBERS

- Georgia Anetzberger, President, National Committee on the Prevention of Elder Abuse
- Joan Braun, Co-Chair, ACR Elder Section
- Andrew Capehart, Assistant Director, National Adult Protective Services Association
- Christie Coates, Designee, Past President of AFCC
- Annice Davis-White, Designee, National Association of Professional Geriatric Care Managers
- Resa Eisen, MSW, RSW, Designee, Alternative Dispute Resolution Institute of Canada
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- Kim Grier, President, National Guardianship Association
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- Sally Hurme, Project Advisor on Education and Outreach, Association of American Retired Persons
- Hon. Sandy Karlan, President, FLAFCC
- Michael Kirtland, J.D., LL.M., CELA, Designee, National Academy of Elder Law Attorneys
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**APPENDIX B: REPRESENTATIVES OF ORGANIZATIONS COMPOSING THE
FLAFCC TASK FORCE ON ELDERCARING COORDINATION**

(The indicated position is that held at the time the representative joined the FLAFCC Task Force.)

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- Hon. Michelle Morley, Co-Chair, Board of Directors, FLAFCC

MEMBERS

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- Robert Anderson, Florida Statewide Program Director/Nelson Mongiovi, MHP, Regional Program Director, Designee, Florida Department of Children and Families Adult Protective Services
- Susan Rice Anderson, Deputy State Ombudsman for Legal Affairs, Florida State Ombudsman
- Larry Barlow, Ph.D., LMFT, AAMFT, Approved Supervisor, Executive Director, Florida Association For Marriage and Family Therapists
- Margaret Boeth, Program Director, Florida Attorney General's Office
- Cathy Bowers, President, CP, MSA, NCG, National Patient Advocate, Inc.
- Sean Cadigan, General Magistrate/Jennifer Branch, Court Counselor, Designee, Elder Justice Center, Tampa, FL
- Karen Campbell, Regional Head North Florida, Designee, Office of Public Guardian, Inc.
- Cheval Breggins, M.B.A., Executive Director, Florida Psychological Association
- Gregory Firestone, Ph.D., Director, University of South Florida Conflict Resolution Collaborative
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REFERENCES

Federal Interagency Forum on Aging-Related Statistics (2012)
 (National Center for Cultural Competence, 2006, nccc.georgetown.edu/documents/pptculture.pdf)

Linda Fieldstone, M.Ed., Supervisor of Family Court Services of the 11th Judicial Circuit, Florida, has served as a parenting coordinator since 1990 and was instrumental in the development of parenting coordination in Miami-Dade County and statewide. She is a past president of the Association of Family and Conciliation Courts (AFCC) and a past president of the Florida Chapter (FLAFCC), receiving their Community Service Award in 2014. She was secretary of the AFCC Task Force on Parenting Coordination, which provided Guidelines for Parenting Coordination in 2005.

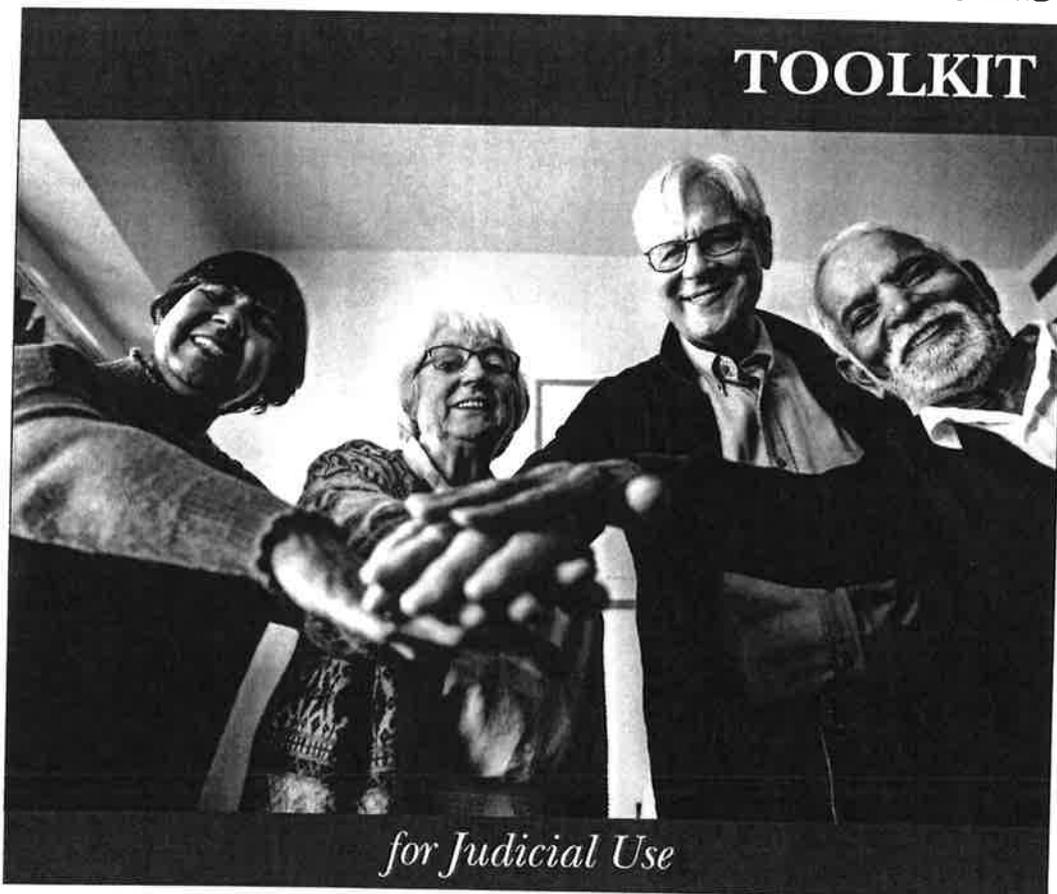
Sue Bronson, a licensed clinical social worker, is designated as an advanced practitioner in family mediation by the Association for Conflict Resolution (ACR) and is co-chair of the ACR Task Force on Eldercaring Coordination. She has over thirty years of experience mediating family and workplace disputes, has trained other professionals in the United States and internationally in conflict resolution, and is the lead author of the Self-Assessment Tool for Mediators.

Judge Michelle Morley serves as a circuit court judge in Sumter County, Florida, assigned to family, probate, guardianship, and mental health matters as well as other civil matters. She initiated Felony Drug Court and Dependency Drug Court programs in Sumter County and was instrumental in developing the Leadership Sumter County program and the Sumter County Children's Alliance. She is a member of the Florida Judicial Qualifications Commission, having previously served on the Florida Judicial Ethics Commission. She has been a member of the board of the FLAFCC since 2007.



THE SUPREME COURT *of* OHIO

ADULT PROTECTIVE SERVICES TOOLKIT



for Judicial Use

THE SUPREME COURT *of* OHIO

ADULT PROTECTIVE SERVICES TOOLKIT FOR JUDICIAL USE



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ACKNOWLEDGEMENTS

The Subcommittee on Adult Guardianship to the Advisory Committee on Children and Families and the Supreme Court of Ohio would like to extend our special thanks to the Adult Protective Services Education Event Workgroup Members for their assistance in the Workgroup and the development of this publication:

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2. ADULT PROTECTIVE SERVICES BENCH CARD

- This bench card outlines the judicial procedures and remedies available for adults who are in need of protective services.

FILINGS

1. SPF 23.0 Petition for Protective Services
2. SPF 23.1 Notice of Petition for Court Ordered Protective Services
3. SPF 23.2 Petition for Emergency Protective Services
4. SPF 23.3 Notice of Petition for Court Ordered Protective Services on an Emergency Basis
5. SPF 23.4 Petition for Temporary Restraining Order to Prevent Interference with Investigation of Reported Abuse of an Adult
6. SPF 23.6 Petition for Temporary Restraining Order to Prevent Interference with the Provision of Protective Services to an Adult
7. SPF 23.7 Notice of Hearing on Petition for Temporary Restraining Order to Prevent Interference With the Provision of Services

DEFINITIONS [R.C. 5101.60]

Adult – Person age 60 or older within this state handicapped by infirmities of aging or has physical or mental impairment that prevents person from providing for their own care or protection and who resides in an independent living arrangement, including residential facility licensed under R.C. 5119.22

Court – Probate court in county where adult resides

Emergency – Adult is living in conditions that present substantial risk of immediate and irreparable physical harm or death to self or another person

Incapacitated person – Person who is impaired to the extent that person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning person's self or resources, with or without the assistance of a caretaker. Refusal to consent to provision of services shall not be the sole determinative that person is incapacitated

In need of protective services – An adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result

Abuse – Infliction upon adult by self or others of injury, unreasonable confinement, intimidating or cruel punishment with resulting physical harm, pain, or mental anguish

Neglect – Failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness, failure of caretaker to provide such goods or services, or abandonment

Exploitation – Unlawful or improper act of a person using, in one or more transactions, an adult or adult's resources for monetary or personal benefit, profit or gain when the person obtained or exerted control over adult or the adult's resources in any of the following ways:

- Without adult's consent or consent of the person authorized to give consent
- Beyond scope of express or implied consent of adult or person authorized to give consent
- By deception
- By threat
- By intimidation

2. ADULT PROTECTIVE SERVICES BENCH CARD - *cont.*

NOTE

These provisions apply to involuntary protective service proceedings. For voluntary proceedings, refer to R.C. 5101.66.

TEMPORARY RESTRAINING ORDER

[R.C. 5101.651]; [R.C. 5101.69]

Investigation/Access to Residence [R.C. 5101.651]

- County Dept. of Job & Family Services (Co. DJFS) may petition the court for temporary restraining order to prevent interference or obstruction by any person, including the adult, who denies or obstructs access to residence of adult during course of investigation under R.C. 5101.65
- **Temporary Restraining Order** – Court shall issue temporary restraining order if it finds reasonable cause to believe:
 - Adult is being or has been abused, neglected, or exploited, **AND**
 - Access to adult’s residence has been denied or obstructed
 - Such finding is prima-facie evidence that immediate and irreparable injury, loss, or damage will result, so notice is not required

Provision of Services [R.C. 5101.69]

- Co. DJFS may petition court for temporary restraining order to restrain any person from interfering with provision of protective services for the adult, when the adult has consented to the provision
 - **Petition** – Petition shall state specific facts sufficient to demonstrate need for protective services, the consent of adult, and refusal of some person to allow provision of services
 - **Notice** – Notice of petition shall be given to person alleged to be interfering

- **Hearing** – Court shall hold hearing on petition within **14 days** after its filing
- **Temporary Restraining Order** – Court shall issue temporary restraining order if it finds:
 - Protective services are necessary
 - Adult has consented to provision of services
 - The person who is subject of petition has prevented such provision

COURT ORDERED PROTECTIVE SERVICES

[R.C. 5101.68]; [R.C. 5101.681 - .682]

Petition [R.C. 5101.68]

- Co. DJFS may petition court for an order authorizing provision of protective services if it determines the adult is in need of protective services and is an incapacitated person (adult did not voluntarily accept services)

Notice of Petition [R.C. 5101.681]

- Notice to be personally served on adult at least 5 working days prior to hearing date
- Notice to adult shall be given orally or in writing
- Notice shall include all petitioners’ names, basis of belief that protective services are needed, rights of adult in court proceedings, consequences of court order, adult’s right to counsel, adult’s right to appointed counsel if indigent and requests appointed counsel
- Written notice by certified mail shall be given to adult’s guardian, legal counsel, caretaker, and spouse, if any, or, if none of these, to adult children or next of kin if any, or to any other person court may require
- Adult may not waive notice

Hearing & Order [R.C. 5101.682]

- **Hearing** held within **14 days** after filing of petition
- Rights of adult:
 - Be present at hearing
 - Present evidence
 - Examine and cross-examine witnesses
 - Be represented by counsel unless knowingly waived
 - Court appointed counsel if indigent
 - Court appointed counsel if court determines adult lacks capacity to waive right to counsel

Order

- Court shall issue order requiring provision of protective services **IF**:
 - Court finds by clear and convincing evidence that:
 - Adult has been abused, neglected, or exploited;
 - Is in need of protective services;
 - Is incapacitated; **AND**
 - No person authorized by law or court order is available to give consent.
 - If above findings are made, protective services are ordered to be provided only if services are available locally

Placement

- If placement is ordered, consideration shall be given to choice of residence of the adult
- May be in settings approved by the DJFS that meet minimum community standards for safety, security, and requirements of daily living
- Institutional placement shall not be ordered unless specific finding was entered in the record that no less restrictive alternative can be found to meet the adult's needs

- Cannot order commitment to a hospital or public hospital as defined in R.C. 5122.01
- Change of placement ordered only upon court's finding of compelling reasons to justify transfer
- Court shall notify adult of transfer at least 30 days prior, unless emergency exists
- Order provided for in this section shall remain in effect for no longer than 6 months
- If Co. DJFS determines continued need for services after review of adult's needs, it shall apply for renewal of order for additional periods of no longer than one year each
- Adult may petition for modification of order at any time

COURT ORDERED PROTECTIVE SERVICES - EMERGENCY BASIS [R.C. 5101.70]

Petition (Emergency Basis) [R.C. 5101.70]

- Filed by Co. DJFS or its designee and shall include:
 - Adult's name, age, address
 - Nature of emergency
 - Proposed protective services
 - Petitioner's reasonable belief and supportive facts that:
 - Adult is incapacitated
 - An emergency exists
 - No person is available or willing to consent for the adult
 - Facts showing attempts to obtain adult's consent

Notice of filing and petition contents

- To adult, shall include both:
 - Right to be present at hearing, present evidence, examine and cross-examine witnesses
 - Possible consequences of order

2. ADULT PROTECTIVE SERVICES BENCH CARD - *cont.*

- To spouse, if any, or to adult child or next of kin, and guardian, if any, if whereabouts known
- Given 24 hours prior to hearing, unless waived by court if:
 - Immediate and irreparable physical or financial harm to adult or other will result from 24-hour delay; and
 - Reasonable attempts were made to notify adult, spouse, if any, adult children or next of kin, if any, and guardian, if any, if whereabouts are known
 - If 24-hour notice is waived, notice of this determination shall be given to persons receiving notice
- If services are necessary beyond emergency period, petition can be filed under R.C. 5101.68; Co. DJFS or its designee, after filing petition, permitted under R.C. 5101.70(F) to continue to provide services pending hearing by court
- Authorize Co. DJFS director, designee, or rep. of designee to give consent for adult until order expires
- Cannot order commitment to a hospital or public hospital, as defined in R.C. 5122.01

Hearing

- Shall be held no sooner than 24 and no later than 72 hours after notice is given, unless court waived notice

Order (Emergency Basis)

- Court shall issue order if it finds by clear and convincing evidence that:
 - Adult is incapacitated;
 - Emergency exists; and
 - No person authorized by law or court order is available to consent.

Limitations to Order

- Specifically designate only necessary and locally available services to remove the emergency
- No change of residence unless finding necessary
- Services for **14 days**, unless Co. DJFS or its designee petitions court for renewal of 14-day order upon showing is necessary to remove emergency

COURT ORDERED PROTECTIVE SERVICES - EX PARTE EMERGENCY BASIS [R.C. 5101.701]

Ex Parte Emergency Order [R.C. 5101.701]

- Court (judge or magistrate under direction of judge) may issue by **telephone** an ex parte emergency order if ALL of the following are applicable:
 - Co. DJFS/authorized employee of Co. DJFS/Co. DJFS designee/authorized employee of designee notifies court that they believe emergency order is needed as described herein;
 - Reasonable cause to believe adult is incapacitated; and
 - Reasonable cause to believe there is substantial risk to adult of immediate and irreparable physical or financial harm, or death.
- Order shall be journalized
- Order effective for not longer than **24 hours** (except if day following day on which order is issued is not a working day, then order shall remain in effect until next working day)

- Not later than **24 hours** after order is issued, petition under R.C. 5101.70(A) shall be filed with court (unless day following day on which order was issued is not a working day, then petition shall be filed on next working day)
- Proceedings shall be conducted in accordance with R.C. 5101.70, except as provided in R.C. 5101.702

Hearing [R.C. 5101.702]

- Shall be held not later than **24 hours** after issuance of order to determine if there is probable cause for the order (except if day following day on which order is issued is not a working day, then order shall remain in effect until next working day)
- Court shall determine whether protective services are least restrictive alternative available
- Court may issue temporary orders, including, but not limited to, temporary protection orders, evaluations, and orders requiring a party to vacate adult's place of residence or legal settlement
 - Temporary order(s) are effective for 30 days

- Court may renew order for additional 30-day period
- Information in order may be entered into law-enforcement automated-data system
- Court may order emergency services
- Court may freeze financial assets of adult

PAYMENT OF SERVICES [R.C. 5101.71]

Payment of Services [R.C. 5101.71]

- Adult shall not be required to pay for court-ordered services unless court determines upon a showing by Co. DJFS that adult is financially able to pay and court orders the same

NOTE →

If adult is indigent, court shall appoint legal counsel whenever Co. DJFS has petitioned court to authorize provision of protective services.



DAVE YOST

OHIO ATTORNEY GENERAL

WWW.Ohio AttorneyGeneral.gov
800-282-0515

Summary of Revisions to Chapter 5101 Department of Job and Family Services - Adult Protective Services H.B. 49 Provisions

Effective 9/29/2018 the legislation included numerous changes to statutes pertaining to adult protective services, which include:

5101.60 Adult protective services definitions.

- Modifies and adds definitions used in sections 5101.60 -5101.741 of the Ohio Revised Code (ORC)
 - Adds “Abandonment” to the definition of “Neglect” to mean the desertion of an adult by a caretaker without having made provision for transfer of the adult’s care
 - Modifies “Exploitation” to mean the unlawful or improper act of a person using, in one or more transactions, an adult or an adult’s resources for monetary or personal benefits, profit, or gain when the person obtained or exerted control over the adult or the adult’s resources in

5101.62 Training program.

- Modifies the training program.
 - Mandates the Ohio Department of Job and Family Services to develop and make available educational materials for individuals who are required under section 5101.63 of the RC to make reports of abuse, neglect, or exploitation
 - Mandates the Ohio Department of Job and Family Services to facilitate ongoing cooperation among state agencies on issues pertaining to the abuse, neglect, or exploitation of adults

5101.63 Reporting abuse, neglect or exploitation of adult.

- Expands and modifies the persons required to report suspected abuse, neglect, or exploitation of adults to include:
 - Pharmacists
 - Agents of county humane society
 - Dialysis technicians
 - Employees of outpatient health facilities
 - Employees of mental health hospitals or units (RC 5122.01)
 - Firefighters
 - Employees of the health department
 - Ambulance drivers
 - First responders (RC 4765.01)

- Housing inspectors
- Certified public accountants (RC 4701)
- Bank, savings and loan and credit union employees
- Real estate brokers or salespersons
- Notary publics
- Investment advisor (RC 1707.01)
- Accredited financial planner

5101.632 Access to educational materials.

- Each organization and or entity that employs or is responsible for licensing or regulating the individuals required under section [5101.63](#) of the RC to make reports of abuse, neglect, or exploitation of adults shall ensure that the individuals have access to the educational materials developed under division (B) of section [5101.62](#) of the RC

5101.64 Referring cases of abuse.

- Adds the requirements that County Departments of Job and Family Services to notify law enforcement agencies if there is a reasonable cause to believe the subject of an abuse, neglect, or exploitation report has been criminally exploited

5101.73 Denial or obstruction of access to adult victim's residence.

- In the course of a criminal investigation by law enforcement, allows a county prosecutor to petition courts for a temporary restraining order related to the provision of adult protective services

5101.74 Elder abuse commission.

- Creates the Elder Abuse Commission and membership in statute

5101.741 Duties of the commission.

- The elder abuse commission shall formulate and recommend strategies on elder abuse issues:
 - Increase awareness and improve education
 - Promote research
 - Improve policy, funding, and programming
 - Improve the judicial response
 - Promote on collaborative efforts
 - Explore funding streams

Combating Elder Maltreatment through Laws, Legal Interventions & Eldercaring Coordination

Sue Bronson, LCSW, Co-Chair, Elder Justice Initiative on Eldercaring
Coordination

Linda Fieldstone, M.Ed., Co-Chair Elder Justice Initiative on Eldercaring
Coordination

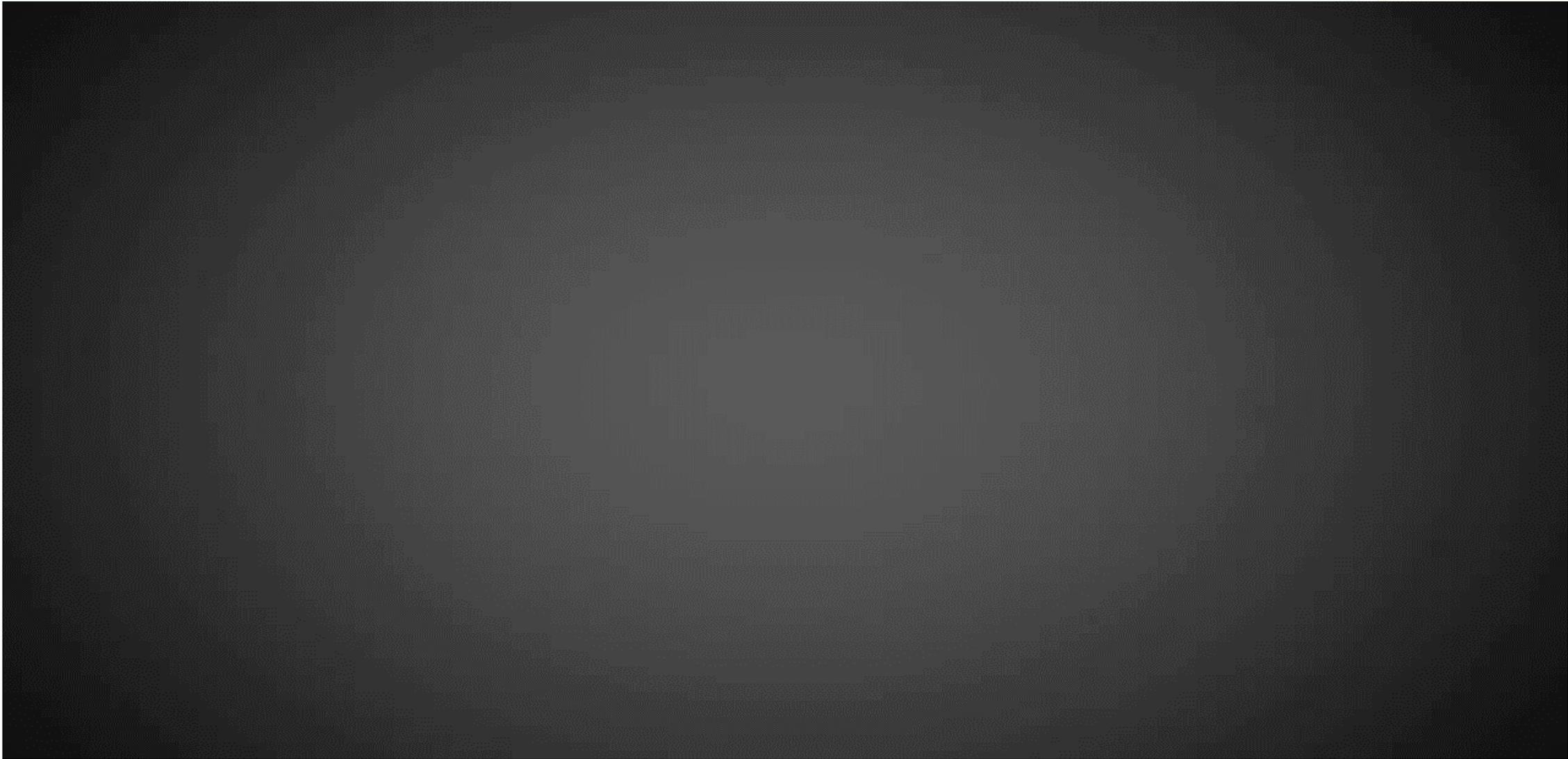
Sylvia Pla-Raith, MA, LSW., Director, Elder Justice Unit, Office of Ohio Attorney
General Dave Yost

April Wehrle, Senior Elder Services Coordinator, Elder Justice Unit, Ohio
Attorney General

THE SUPREME COURT *of* OHIO **2020**
Dispute Resolution
Conference

Learning Objectives

1. Identify forms and indicators of elder maltreatment.
2. Review the role and responsibilities associated with the Adult Protective Services including non-voluntary legal interventions (Ohio Revised Code 5101.61-5101.73).
3. Explain how eldercaring coordination safeguards older adults in families with high conflict dynamics.



What Is Elder Abuse And Neglect?

Elder Abuse:

- Any knowing, intentional, or negligent act
- By self, a caregiver and/or other in a position of trust
- That causes harm or a serious risk of harm to a vulnerable older person

Learn The Warning Signs

- Changes in the older adult's physical **appearances**
- Changes in the older adult's **personality**
- Observing a dominating or threatening **caregiver**
- Observing changes in the older adult's **home environment**

Contributing Factors

- **Isolation** – self imposed or lack of mobility
- **Dementia** or other type of cognitive decline
- **Increasing older adult population**
 - Adult children have a sense of entitlement
 - Seniors are trusting and believe “pitches”
 - Substance abuse problems or mental illness

Types Of Elder Abuse

When an older adult experiences:

- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect by others
 - Abandonment
- Self-Neglect
- Exploitation

Ohio's Reporting Structure

- Adult Protective Services (community) - **(855)-644-6277**
- Law Enforcement (community and facility)
- LTC Ombudsman (facility) - **(800) 282-1206**
- Ohio Dept of Health (facility) - **(800) 342-0553**
- AGO HealthCare Fraud Dept - **(614) 466-0722**
- Dept of Commerce - **(614) 466-8400**

Ohio Adult Protective Services

- Civil investigation
- Limited by the **ORC (5101.60 - 5101.73)**
- Age, impairment, community dwelling
- Primary mission to put protective services in place
- Least restrictive solutions
- Autonomy/self-determinations
- Adult has right to refuse services

Duty To Report- 5101.63

Any mandatory reporter who has **reasonable cause to believe;** that an adult is being abused, neglected, or exploited; or is in a condition which is a result of abuse, neglect, or exploitation **shall immediately report to the county dept. of job and family services or it's designee.**

ONLY A SUSPICION IS REQUIRED

You Are Protected

Any person with reasonable cause to believe an adult is suffering abuse, neglect, or exploitation, who makes a report, testifies or acts responsibly in the discharge of their official duties

- **Shall be immune from civil/criminal liability;**
- **Unless the person acted in bad faith or with malicious purpose.**

ORC 5101.99 – Up to \$500.00 in fines for not reporting

Effective March 2019- SB 158 – Senator Wilson

Adds protection to Ohio's elderly from financial harm & exploitation;

- Increases public awareness and a best practices toolkit for professionals
- Added penalties up till a \$50,000 fine
- Added more mandatory reporters;
 - Sales person as defined under Chapter 1707 or the ORC
 - Investment Adviser
 - Investment Adviser Representative
 - Dealers

Capacity And Competence

Capacity and **competency** are interchangeable concepts?

- True
- False

Ask The Expert

Can my client...

- Make their own decisions?
- Manage their finances?
- Manage to live independently?
- Create or change a will, trust or execute a power of attorney?
- Understand that someone is influencing them?

APS Protective Service Orders (PSO)

- **ORC 5101.651**: Temporary restraining order
- **ORC 5101.69**: Temporary restraining order to restrain person from interfering with provision of protective services
- **ORC 5101.68**: General PSO
- **ORC 5101.70**: Emergency PSO
- **ORC 5101.701**: Ex-Parte Emergency PSO

General Evidence For PSO

1. Client is unable to protect self
2. Confirmed allegation(s) of A/N/E
3. History of least restrictive attempts
4. Facts showing APS's attempts to obtain the adult's consent
5. Current risk of harm if no action is taken

ELDER ABUSE VICTIMS HAVE RIGHTS TOO!

Court Limitations

1. Services must be necessary and available
2. Change of residence only if deemed necessary
3. Emergency Orders -14 day order
4. General Orders – Up to 6 months
5. Authorize the director of the department to give consent for the approved emergency services
6. Excludes hospital under section 5122.01



THE SUPREME COURT OF OHIO
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60% Of ABUSE Is Perpetrated By FAMILY MEMBERS

National Council On Aging



ACR/FLAFCC ELDER JUSTICE INITIATIVE ON ELDERCARE COORDINATION



THE SUPREME COURT of OHIO
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Elders May Reject Intervention

Because they:

- Do not want family members to be in trouble
- Don't want to admit being taken advantage of
- Fear the loss of their independence
- Fear losing dependence upon the abuser



Traditional Responses To Elder Abuse..

- Adult Protective Services
- Law Enforcement
- Court System



New Option: Eldercaring Coordination

Resolves high conflict disputes in a manner that respects the elder's need for autonomy and safety...



Eldercaring Coordination

...helps families reduce conflict, minimizes risks and abuse, and respects and preserves the dignity, and quality of life of aging persons.



The Eldercaring Coordinator (Ec)

- Teaches effective communication, negotiation and problem-solving
- Offers options for elder care resources
- Facilitates eldercaring plans to coordinate collaboration and track progress
- Makes recommendations for resolutions
- Makes decisions within scope of court order or parties' prior approval



Eldercaring Coordinator Qualifications

- Master's degree
- Licensure or Certification
- Extensive practical experience in profession related to high conflict families
- **Required training:**
 - Family mediation
 - Elder mediation
 - Eldercaring Coordination



Family Secrets & Safety Issues Uncovered

- Abuse/Neglect
- Coercion
- Vulnerability
- Isolation
- Unsafe environment
- Physical challenges
- Caregiver capacity
- Substance abuse/ Mismatched medication



How ECS Combats Effects Of Elder Abuse

- Identify risks
- Address non-legal issues
- Foster self-determination
- Teach elder/family to collaborate
- Foster intergenerational support system

RESPONSIVE, LESS EXPENSIVE, PRIVATE!



Eldercaring Coordination Benefits Multigenerations In Families



ACR/FLAFCC ELDER JUSTICE INITIATIVE ON ELDERCARING COORDINATION



Eldercaring Coordination In Ohio

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 cases through agreed orders.

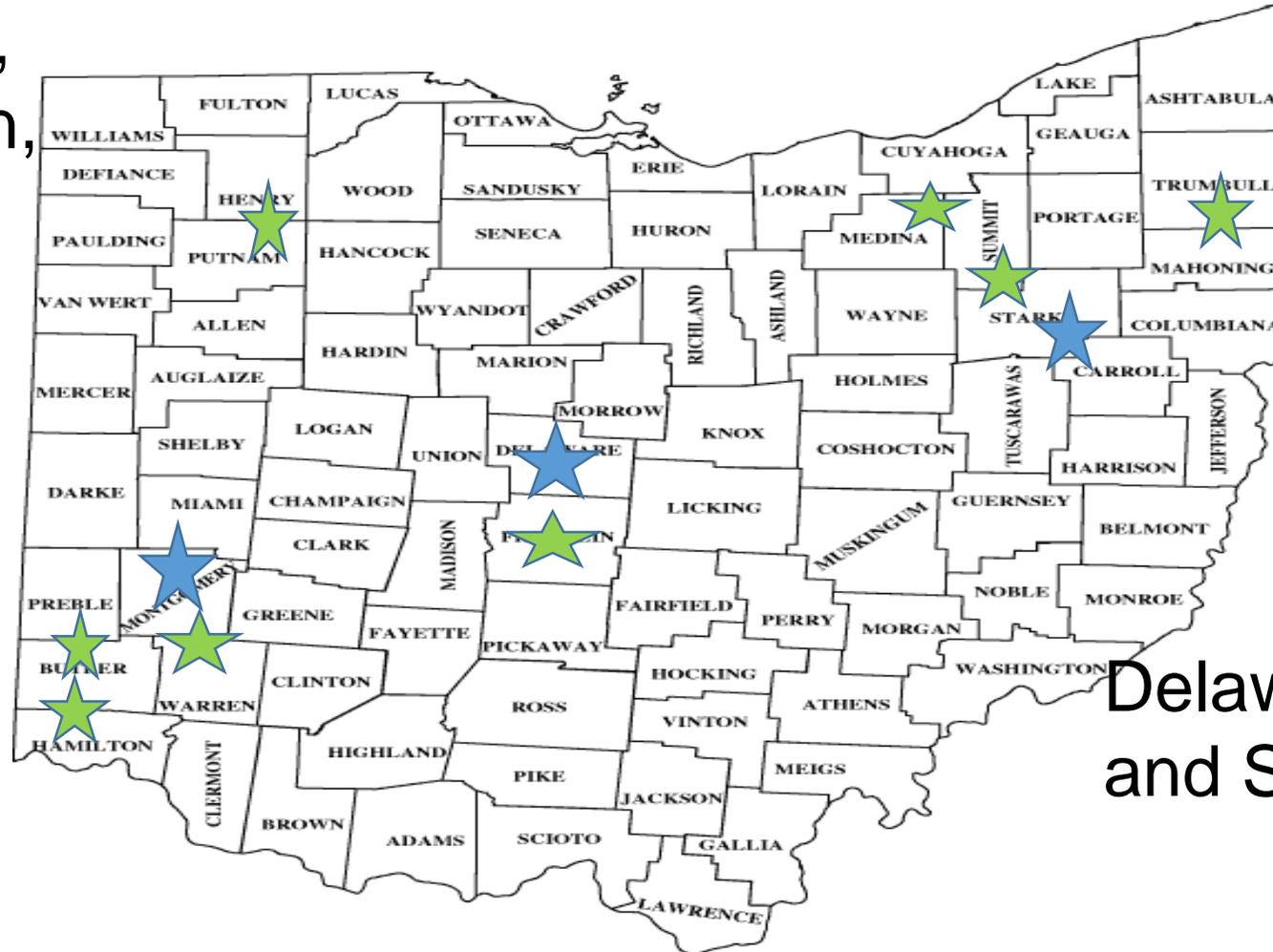
ECs trained in: California, Florida, Idaho, Indiana, Maryland, Minnesota, Ohio, Toronto



★ = Interested counties:

Butler, Cuyahoga,
Franklin, Hamilton,
Henry, Summit,
Trumbull, Warren

OHIO



★ = Pilot sites:
Delaware, Montgomery,
and Stark

Elder Justice Initiative on
ELDERCARING COORDINATION

“I just want my family to get along!”



Association for
Conflict Resolution
VOICES, CHOICES, SOLUTIONS

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On behalf of ACR/FLAFCC Elder Justice Initiative on Eldercaring Coordination



Florida Chapter, Association
of Family and Conciliation Courts

THE SUPREME COURT of OHIO
Dispute Resolution
Conference **2020**

For More Information:

www.EldercaringCoordinationFL.ORG

YOUTUBE Eldercaring Coordination

QUESTIONS.....



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