

The Association for Conflict Resolution

GUIDELINES FOR ELDERCARE COORDINATION



**Association for
Conflict Resolution**
VOICES, CHOICES, SOLUTIONS

OCTOBER 2014

**Association for Conflict Resolution Task Force
on Eldercare Coordination**

ACR Elder Justice Initiative on Eldercare Coordination
National College of Probate Judges Spring Conference 2017 Santa Fe, New Mexico

**Association For Conflict Resolution
Task Force On Eldercaring Coordination**

GUIDELINES FOR ELDERCARING COORDINATION

FOREWORD

The Association for Conflict Resolution Task Force (“ACR Task Force”) envisions the use of “eldercaring coordination,” as an application of the “coordination” process to guardianship/probate cases in which high conflict family dynamics interfere with the well-being and safety of the elder, limit adherence to court orders, impede court processes, and detract from the efficacy of guardianship and other appointments by the court. Since parenting coordination has been established as a viable dispute resolution option for high conflict cases, the Association for Conflict Resolution (ACR) Task Force on Eldercaring Coordination (“ACR Task Force”) used the process of “parenting coordination” as a model to develop a “coordination” process specific to the unique needs of elders. These guidelines will address the current discrepancy between dispute resolution options available for high conflict parents dealing with young children and high conflict cases regarding an elder’s needs, care and safety. Although courts recognize both children and elders as vulnerable populations, there is currently no option for dispute resolution for parties involved in high conflict cases regarding elders.

The Association of Family and Conciliation Courts (“AFCC”) was instrumental in the development of parenting coordination, a dispute resolution process to assist high conflict parents and children involved in family court actions, currently utilized throughout the United States, Canada and other countries. Learning from the processes that led to the development of parenting coordination, in 2012 Linda Fieldstone, former President of AFCC and AFCC Task Force on Parenting Coordination secretary, approached Sue Bronson, Co-Chair of the ACR Elder Section, to explore the utilization of this process in cases involving elders. ACR leadership was aware that the potential benefits for parties and the court would become even more relevant since the number of baby boomers reaching 65 years of age will double from 2008 to 2030. They believed that this project forwarded their mission to “give voice to the choices for quality conflict resolution.” Thus, the ACR Task Force on Eldercaring Coordination was created in January 2013 with the following mission:

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.

Eldercaring coordination focuses on improving relationship dynamics so that the elder, family, and others in supportive roles can better collaborate with the professionals able to help them make the onslaught tough decisions ahead and support each other during times of transition.

The Task Force was composed of representatives from the following entities:

Alternative Dispute Resolution Institute of Canada
American Association for Marriage and Family Therapy

ACR Elder Justice Initiative on Eldercaring Coordination
National College of Probate Judges Spring Conference 2017 Santa Fe, New Mexico

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
Florida Chapter of the Association of Family and Conciliation Courts
National Academy of Elder Law Attorneys
National Association of Professional Geriatric Care Managers
National Adult Protective Services Association
National Association of Area Agencies on Aging
National Association of Social Workers
National Center for State Courts
National College of Probate Judges
National Committee on the Prevention of Elder Abuse
National Council of Juvenile and Family Court Judges
National Guardianship Association
National Guardianship Network

The representatives composing the ACR Task Force 2013-2014 were: Co-Chairs Sue Bronson, and Linda Fieldstone, Joan Braun, Georgia Anetzberger, Annice Davis-White, Andrew Capehart, Christie Coates, Resa Eisen, Amie Gourlay, Julie Gray, Trudy Gregorie, Kim Grier, Chris Herman, Michelle Hollister, Sally Hurme, Michael, Kirkland, Sandy Markwood, Hon. Sandy Karlan, Karen Largent, Linda Oxford, Meredith Ponder, Mary Joy Quinn, Jessica Singer, Matt Sullivan, Brenda Uekert, Erica Wood, Hon. Mike Wood, Martin Zehr and Zena Zumeta.

An Advisory Committee, composed of national experts in relevant fields, was created to answer targeted questions, review work product, join Task Force Committees and provide additional assistance upon request. Support was also received by *Collaborate*, joint American Bar Association and Elder Section of the ACR Listserve, and the AFCC Parenting Coordination Listserve.

Additionally, concurrent with the establishment of the ACR Task Force, the Florida Chapter of AFCC (FLAFCC) created its own Task Force on Eldercaring Coordination, composed of statewide entities, with the same mission and similar work product goals and stages. The two Task Forces worked collaboratively during Stage One of this project, with the ACR Task Force focused more generally to provide over-arching advice and an umbrella version of practice guidelines and the FLAFCC Task Force demonstrating how a state may apply those recommendations to their specific needs and characteristics. Accordingly, the work of each Task Force was elevated and educated through the efforts of the other.

The objectives of this project include:

1. developing a discussion amongst stakeholders (organizations and associations, professions, court, collaterals) regarding the application of a “coordination” process (i.e. eldercaring coordination) to high conflict family dynamics when elders are an issue;
2. using existing and facilitating new research to study the implications of eldercaring coordination as a vehicle for high conflict management and the resolution of disputes regarding eldercare issues;

3. exploring the ethical challenges and considerations in applying concepts used in the coordination of parents with minor children to the elder population and existing legal frameworks for elders;
4. creating the process of eldercaring coordination to best address high conflict family dynamics when eldercare is an issue;
5. developing guidelines, including training and qualifications, for professionals practicing this dispute resolution process for elders (i.e. eldercaring coordination);
6. creating a court pilot project proposal to refer parties for eldercaring coordination in high conflict cases, including eldercaring coordination project assessment tool;
7. encouraging interdivisional collaboration between court divisions to conserve resources by utilizing them for families of all ages and life stages;
8. enhancing the definition of “family” in the court to include the range of family dynamics and needs throughout the years;
9. expanding the use of “coordination” as a dispute resolution method to address high conflict cases involving various situations and issues.

Both the ACR Task Force and FLAFCC Task Force projects were divided into three stages:

- Stage One: to complete a work product which includes a definition for eldercaring coordination, qualifications, ethical guidelines and training protocol, grievance process, a template for Court ElderCaring Coordination Project Proposal, and project evaluation component;
- Stage Two: to disseminate the work product to the court, professionals and the public; to develop and facilitate a model training program for ElderCaring Coordinators; to develop and facilitate a train the ElderCaring Coordinator training program; to assist with the integration of the Court Pilot Project in circuits, jurisdictions, and provinces; to seek possible sources of funding, including grant opportunities; and to implement an assessment component for those cases entering into the process;
- Stage Three: to reassess the work product for improvements, revise work product and disseminate the results.

In order to develop this new coordination field responsibly and ensure the well-being and safety of the elder, the ACR Task Force developed the following, included herein:

1. Ethical Guidelines for ElderCaring Coordination
2. Recommended Complaints Procedure
3. ElderCaring Coordination Training Guidelines and Protocols
4. Court Rule Proposal Template, including standardized forms
5. ElderCaring Coordination Project Assessment Tool/Pre- and Post- Surveys for Elders, other participants and the ElderCaring Coordinator

On October 5, 2014, the Board of Directors of the Association of Conflict Resolution voted unanimously to approve the ACR Task Force work product, which can be found on the ACR website at: <http://acrelldersection.weebly.com/>. The ACR Guidelines for ElderCaring Coordinator were formally endorsed by the Association of Family and Conciliation Courts on November 6, 2014.

The ACR ElderCaring Coordination Project Assessment Team will utilize the information obtained from participating Court Pilot Project sites to continue to enhance the development of the eldercaring coordination process. Analysis conducted will be provided to the Project sites on

an interim basis to inform improvements to the process throughout its implementation. The success of this project may be assessed by:

- Reduction in hearings before the court in cases referred to eldercaring coordination;
- Review of ElderCaring Coordination Survey given to the participants in eldercaring coordination;
- Instances of reports of elder abuse, neglect and exploitation;
- Increased use of community resources (e.g. physicians, attorneys, guardians, elder mediators, health care, psychosocial and financial experts, etc.) to assist the elder/incapacitated and family;
- Development of a project design that can be replicated in various circuits, jurisdictions and provinces interested in pursuing these project goals and objectives.

GUIDELINES FOR ELDERCARING COORDINATION OVERVIEW AND DEFINITION OF ELDERCARING COORDINATION

Eldercaring coordination will focus on reducing conflict and court involvement so the elder, 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, guidance and care.

The process of eldercaring coordination has been developed to:

- Help manage high-conflict family dynamics so that the elder, family, and stakeholders can address their non-legal 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 or 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 have been ineffective.

Definition of Eldercaring Coordination:

Eldercaring coordination is a dispute resolution process during which an Eldercaring Coordinator assists elders, legally authorized decision-makers, and others who participate by court order or invitation, to resolve disputes with high conflict levels 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.

Eldercaring Coordinators 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. Since the role of the Eldercaring Coordinator 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 regarding the elder's understanding of the process, the elder's safety, and the possibility of abuse, neglect, coercion, fraud and exploitation.

Qualifications of Eldercaring Coordinators:

1. An Eldercaring Coordinator 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 Association for Conflict Resolution; and
 - b. Completion of elder mediation training certified or approved by the circuit, state or province or commensurate with the objectives established by the Association for Conflict Resolution; and
 - c. Completion of eldercaring coordination training certified or approved by the circuit, state or province or commensurate with the objectives established by the Association for Conflict Resolution; and
 - d. Extensive practical experience in a profession relating to high conflict within families.
2. An Eldercaring Coordinator shall be psychologically and cognitively able to perform the requirements of the Eldercaring Coordinator role; and have no situation, condition, impairment, or disorder that prevents the ethical, responsible and effective exercise of the Eldercaring Coordinator role.
3. An Eldercaring Coordinator must decline a case, discontinue service and immediately report to the court and the parties if any disqualifying circumstances as noted above occur, or if he or she no longer meets the minimum qualifications.

Responsible Practice of Eldercaring Coordinator (EC)

The Eldercaring Coordinator's primary responsibility is to the elder. At the same time, the Eldercaring Coordinator must develop and maintain good working relationships with family members and other professionals involved in the elder's care. In addition, the Eldercaring Coordinator 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 Eldercaring Coordinator 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 or her professional practice. The Eldercaring Coordinator should also continue to expand his or her professional knowledge and skills, cultural competence, and strive to understand how the larger societal issues affect elders and families.

The ACR Task Force recognizes that each Eldercaring Coordinator is guided by the ethical code, practice standards, and scope of practice for her or his respective profession. Therefore,

the Task Force has applied the core ethical principles common to most human service professions to the eldercaring coordination role and addressed the following two broad aspects of the ethical practice of eldercaring coordination:

1. Unique considerations in working with the elder population.

2. Tasks and functions specific to the role of Eldercaring Coordinator.

These guidelines are aspirational in nature and serve as guidance to courts and programs interested in implementing eldercaring 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 Eldercaring Coordinator understand and follow relevant ethical principles. Professionals considering becoming or serving as Eldercaring Coordinators can find 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 Eldercaring Coordinator.

FOUNDATIONAL ETHICAL PRINCIPLES OF ELDERCARING COORDINATION

1. Autonomy – defined as self-determination; respect for elders’ rights and dignity; 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 or 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 or her ability. The Eldercaring Coordinator shall promote the self-determination of the elder as fully as possible within the context of the eldercaring coordination process. The Eldercaring Coordinator has a responsibility to assist the elder in articulating his or her goals, needs, and preferences so that these can be incorporated into the plan of care to the greatest extent possible. The Eldercaring Coordinator 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 Eldercaring Coordinator 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 herself or himself or others, the preferences expressed by the elder should be followed even when others, including the Eldercaring Coordinator, do not agree with those decisions.

Regardless of the elder’s decisional capacity, the Eldercaring Coordinator 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 eldercaring 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 Eldercaring Coordinator 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, she or he should be evaluated by a professional who is competent to make that determination, other than the Eldercaring

Coordinator. If the elder does not comprehend the factors involved in the decision-making process and, therefore, cannot make a competent decision, the Eldercaring Coordinator 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 Eldercaring Coordinator 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 Eldercaring Coordinator shall promote person-centered service delivery by communicating with the elder to the greatest extent possible. When such communication is limited, the Eldercaring Coordinator shall strive to keep the elder's goals, needs and preferences at the center of the process. The Eldercaring Coordinator shall maintain open, respectful communication with legally authorized decision-makers and others participating in the eldercaring coordination process. The Eldercaring Coordinator 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 – defined as doing good to others; promoting the well-being of eldercaring coordination participants

The Eldercaring Coordinator 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 Eldercaring Coordinator 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 Eldercaring Coordinator 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 Eldercaring Coordinator shall 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 Eldercaring Coordinator shall maintain impartiality in the process of eldercaring coordination, the Eldercaring Coordinator 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 – defined as working together cooperatively in the interest of achieving shared goals

Eldercaring coordination entails collaboration on three levels: between the Eldercaring Coordinator and participants in the eldercaring coordination process, among eldercaring coordination participants, and between the Eldercaring Coordinator and other service providers. The Eldercaring Coordinator shall strive to promote such collaborations on behalf of the elder

served. The Eldercaring Coordinator 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 Eldercaring Coordinator 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 inter-organizational collaboration on behalf of the elder. Thus, the Eldercaring Coordinator 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 Eldercaring Coordinator shares information judiciously and only as authorized, safeguarding confidentiality, privacy, and privileged communications as appropriate.

The Eldercaring Coordinator 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 Eldercaring Coordinator 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 – 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, skill and expertise in dispute resolution/ conflict resolution, dynamics of family systems, aging, and familiarity with legal requirements relevant to eldercaring coordination. The Eldercaring Coordinator 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 or her own goals, needs and preferences in that process to ensure his or her care and safety. The Eldercaring Coordinator shall strive to continue to acquire additional specialized knowledge through activities, such as continuing education and case-specific consultation. The Eldercaring Coordinator shall also strive to understand legal authorities, terminology, and procedures that affect eldercaring coordination practice.

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

If the Eldercaring Coordinator has limited experience or knowledge in the matters which impact a specific case, the Eldercaring Coordinator 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 Eldercaring Coordinator 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 Eldercaring Coordinator's skills or expertise and the Eldercaring Coordinator cannot, in a timely manner, develop the specific competency and expertise that is required.

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

5. Fidelity – 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 Eldercaring Coordinator is contractually obligated or for which the Eldercaring Coordinator makes verbal promises. It means recognizing and meeting the responsibilities of the primary profession of the Eldercaring Coordinator, and demonstrating loyalty to the elder involved in the eldercaring coordination process.

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

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

The Eldercaring Coordinator 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 Eldercaring Coordinator. Moreover, the Eldercaring Coordinator shall not engage in dual or multiple roles with any eldercaring coordination participant.

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

Integrity means that the Eldercaring Coordinator shall be honest, diligent, and accountable in the provision of service and shall act in a manner consistent with the values reflected in his or her professional ethical code(s). The Eldercaring Coordinator 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 Eldercaring Coordinator role and abiding by the limitations and scope of the role. The Eldercaring Coordinator shall endeavor to understand the Eldercaring Coordinator role, including sources of authority and appropriate activities, in order to maintain professional boundaries and to avoid incorporating clinical, forensic, or legal practices that are beyond the scope of the Eldercaring Coordinator's role.

7. Justice – defined as non-discrimination; being fair in the treatment of all eldercaring coordination participants; providing appropriate services to all

The Eldercaring Coordinator shall act in a just and fair way in all professional relationships. The Eldercaring Coordinator 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 Eldercaring Coordinator 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 Eldercaring Coordinator 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 Eldercaring Coordinator 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 Eldercaring Coordinator shall endeavor, within the limits of both the Eldercaring Coordinator's role and her or his professional discipline, to mitigate such injustice. The Eldercaring Coordinator 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 Eldercaring Coordinator 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 Eldercaring Coordinator shall decide the disputed issues.

8. Nonmaleficence – defined as avoiding harm to others

The principle of nonmaleficence directs the Eldercaring Coordinator to act in such a way that causes no harm to others. In particular, the Eldercaring Coordinator 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 type of harm seems inevitable. For example, an older person may find it necessary to give up some measure of independence in the interest of maintaining her or his personal safety and security. In such cases, when one harm may be imposed in order to avoid a greater harm, the Eldercaring Coordinator shall strive to choose the lesser of the possible harms. To the extent possible, the Eldercaring Coordinator shall facilitate the elder's choice in such matters, for each elder can best determine which harm seems the "greater" or "lesser" harm for himself or herself.

The Eldercaring Coordinator 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 Eldercaring Coordinator shall report all matters of actual, suspected or potential harm to the proper authorities (law enforcement, protective services, etc.) as directed in his or her profession's code of ethics and/or the law of her or his state, province,

or jurisdiction.

9. Cultural competence – 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, nccc.georgetown.edu/documents/pptculture.pdf).

The Eldercaring Coordinator recognizes that every interaction with elders, other eldercaring coordination participants, and other service providers constitutes a cross-cultural interaction. Therefore, the Eldercaring Coordinator 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 Eldercaring Coordinator regularly evaluates and, as needed, modifies eldercaring coordination services to enhance cultural and linguistic accessibility and responsiveness to clients.

The Eldercaring Coordinator 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 Eldercaring Coordinator’s professional judgment and decision-making. The Eldercaring Coordinator shall develop and maintain awareness of, respect for, and responsiveness to the diversity of families’ cultural contexts. Specifically, the Eldercaring Coordinator 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 socio-economic status influence both the parties’ and the Eldercaring Coordinator’s values and expectations regarding family dynamics and eldercaring coordination. The Eldercaring Coordinator 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.

ELDERCARING COORDINATION PILOT PROJECT PROPOSAL TEMPLATE

The following is a possible template of a court program that demonstrates inter-divisional court collaboration to provide Eldercaring Coordination as a dispute resolution option for high conflict cases involving elders. This template is for illustrative purposes and is meant to be modified and adjusted according to circuit or jurisdiction needs and available resources. Further explanation can be found under specific headings as to how this template may be used to inform the court or obtain funding for a program. Potential forms that could be integrated into the Pilot Project, including an Order of Referral to Eldercaring Coordinator, are included as Exhibit items A-D.

I. Introduction and Brief Overview

The Case Management Unit of the Probate/Guardianship Division, (Family Court Services of the Family Division and Mediation/Arbitration Division of the # Judicial Circuit seek to collaborate in a Pilot Project to enhance the use of dispute resolution options for elders, and specifically to add “eldercaring coordination” as a viable resource in high conflict probate/guardianship cases involving elders.

Using the role of parenting coordination (a process frequently used in family law cases) as a model, eldercaring coordination has been developed for use in probate/guardianship cases in which high conflict family dynamics interfere with the well-being and safety of the elder, limit their adherence to court orders, impede their court process, and detract from the efficacy of guardianship and other appointments by the court.

Guidelines for Eldercaring Coordinators were developed by an interdisciplinary Task Force consisting of twenty U.S. and Canadian organizations convened by the Association for Conflict Resolution (members listed on Appendix E), hereinto for referenced as “ACR Task Force.”

II. Justification: In order for a program to be taken seriously, factual information including statistics pertinent to that locality will be necessary to verify need; include population demographics as well as potential savings to the court and community (e.g. sample language, which may be customized to local, state, or province data follows).

The acceptance and utilization of parenting coordination for high conflict cases involving children gives precedence to the application of the “coordination” process in other situations involving conflict. Parenting coordination is governed by (Administrative Order, Statute and/or Rule). The application of this process to cases involving elders is a natural evolution of “coordination” and the expansion of the definition of “family” to include the life span of the family unit.

Members of the “Baby Boom Generation” began turning 65 in 2011 and nationally the number of elders is expected to more than double by 2050. The growth of this demographic will increase the burdens on Guardianship programs and the Probate/Guardianship Division of this Circuit. (Name) County has experienced a growing population of people over sixty years of age (# in year). This segment of the population faces unique challenges, with the numbers of elders diagnosed with dementia expected to increase (%). The (year) Census cites that over ___% of the population of the County was 65 years or older that year. ___ percent or # of those elders 65 years or older were living in poverty in (year). Of those 75 years and older, ___% lived alone with unmet needs, with # living below the poverty line. However, # of elders (___ %) own their homes. ___ percent of the elders reside alone and are at high risk for self-neglect. Most elders are supported by their families with additional funds. However, elders who have other family living with them (___ %) actually have a higher risk for abuse and exploitation, especially if they own their property.

According to the (Agency/Department), ___% of the elder population in _____county are minorities, including ___% of residents of (specify minorities) 60 years or older. There were ___% females over 60 years compared to ___% males.

As of (date), the projected caseload of the Probate/Guardianship Division in this Circuit is # cases, which includes over # guardianship cases. Other cases filed not counted in the above are # Baker Acts cases and # substance abuse cases that are filed on a monthly basis, and other # miscellaneous petitions. In (previous date for basis of comparison), there were # Baker

Acts filed; that number has grown to # as of (date), a ___% increase.

III. Interdivisional Court Collaboration: Briefly describe court Divisions and units such as Probate/Guardianship Division, Case Management Unit, Mediation/Arbitration Division, Family Division/Family Court Services and any other court or community entity or program that will collaborate to develop eldercaring coordination; include brief descriptions of each so that it is clear how they may contribute individually and/or jointly in this partnership.

The Probate/Guardianship Division, Case Management Unit, Mediation/Arbitration Division, and Family Division/Family Court Services are prepared to collaborate in order to conserve and capitalize on existing court resources in order to effectuate this Pilot Project.

- The Circuit's Probate/Guardianship Court Case Management Unit is responsible for maintaining and tracking compliance with state Statutes, Rules of Procedure and local rule requirements governing the probate estate and guardianship cases. Work involves tracking and monitoring the judge's caseload and guiding cases through the appropriate court processes.
- The Mediation Division of this Circuit currently provides access to mediators for cases in the Family and Juvenile/Dependency Divisions and County Court cases (including Landlord Tenant, Small claims and other civil matters). Elder Mediation is a relatively recent dispute resolution option available to elders and their families in this Circuit through community providers; there are (no) court connected elder mediators at this time.
- *(If there is a Family Court Services)* This Circuit formally created its Family Court Services Unit in (year) to fulfill judicial requests in order to expedite court proceedings and respond to the needs of parents and children with cases in the Family (Domestic Violence, Unified Family Court) Divisions. Family Court Services provides court-ordered intervention to high conflict cases in order to promote the well-being of children in their relationships with both parents, while reducing children's exposure to parental discord. Services are available to parties to supplement their mediation process when they have reached a partial agreement, impasse, or need further support to implement their agreements. (Replace paragraph with reference to resources available to the Family Division if no Family Court Services is available.)

The Family Court Services Unit provides parenting coordination services. Parenting coordination is a child-focused dispute resolution process in which a trained Parenting Coordinator helps facilitate resolution of parenting issues between high conflict parents in a timely manner. Family Court Services provides parenting coordination to indigent cases and referrals to Parenting Coordinators in the community when affordability is not an issue. There are currently # PCs in this circuit on the roster of those qualified according to state Statute, (who have also taken a circuit specific training to inform them of the Circuit protocols).¹ Since a study of judges/general magistrates, attorneys, and Parenting Coordinators in Florida surveyed in 2010 found a significant approval rate for the process,² it is time to offer a coordination process

¹ Note: Include other statistics if available.

² Fieldstone, L., Lee, M., Baker, J., McHale, J. (2012) Perspectives on Parenting Coordination: Views of Parenting Coordinators, ACR Elder Justice Initiative on ElderCaring Coordination 14
National College of Probate Judges Spring Conference 2017 Santa Fe, New Mexico

adapted to the needs of high conflict families dealing with elder issues.

The systems in place for parenting coordination are easily adaptable to address the needs of elders in high conflict family situations. The Probate/Guardianship Division Case Management Unit, Mediation/Arbitration Division and Family Court Services/Family Division wish to collaborate during this Pilot Project to provide eldercaring coordination as a dispute resolution option for high conflict cases to a defined group of probate or guardianship cases.

IV. Eldercaring Coordination Pilot Project Mission: Describe eldercaring coordination and include the definition and qualifications of Eldercaring Coordinators endorsed by the ACR Task Force on Eldercaring Coordination, as well as specific goals of the Pilot Project.

Eldercaring coordination is a dispute resolution option specifically for high conflict cases involving issues related to the care and needs 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. Eldercaring coordination focuses on improving family dynamics so elders, their family, and other stakeholders are able to work better with each other and with service providers in times of transition and the difficult situations that often arise during the aging process. Families and stakeholders who work together are better equipped to address an elder's needs in a manner that respects the elder's autonomy, promotes the elder's safety, and increases the benefits available from various service providers.

Definition of Eldercaring Coordination. The ACR Task Force on Eldercaring Coordination approved the following definition of this process to assist high conflict cases involving elders:

Eldercaring coordination is a dispute resolution process during which an Eldercaring Coordinator assists elders, legally authorized decision-makers, and others who participate by court order or invitation to resolve disputes with high conflict levels in a manner that respects the elder's need for autonomy and safety by:

- Facilitating more effective communication, negotiation, and problem-solving skills;
- Offering education about elder care resources;
- Facilitating the creation, modification, or implementation of an elder care plan if such a plan is necessary to reach a resolution;
- Making recommendations for resolutions; and
- Making decisions within the scope of a court order or with the parties' prior approval.

Qualifications of an Eldercaring Coordinator.

1. An Eldercaring Coordinator shall be licensed or certified by a regulatory body of a

Attorneys, and Judiciary Members, Family Court Review, July 2012.

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 Association for Conflict Resolution;
 - b. Completion of elder mediation training certified or approved by the circuit, state or province or commensurate with the objectives established by the Association for Conflict Resolution;
 - c. Completion of eldercaring mediation training certified or approved by the circuit, state or province or commensurate with the objectives established by the Association for Conflict Resolution; and
 - d. Extensive practical experience in a profession relating to high conflict within families.
2. An Eldercaring Coordinator shall be psychologically and cognitively able to perform the requirements of the Eldercaring Coordinator role; and have no situation, condition, impairment, or disorder that prevents the ethical, responsible and effective exercise of the Eldercaring Coordinator role.
 3. An Eldercaring Coordinator must decline a case, discontinue service and immediately report to the court and the parties if any disqualifying circumstances as noted above occur, or if he or she no longer meets the minimum qualifications.

The court may require additional qualifications to address issues specific to the elder and other eldercaring coordination participants.

A qualified Eldercaring Coordinator must be in good standing, or in clear and active status, with all of the respective professional licensing authorities or certification boards affiliated with the regulatory body (or bodies) of her or his state(s), province(s), or jurisdiction(s), as applicable.

ACR Eldercaring Coordination Court Pilot Project. The ACR Task Force included in its mission to develop the Eldercaring Coordination Court Pilot Project (heretofore referred to as "Pilot Project"). The ACR Task Force proposes that the process of eldercaring coordination, and therefore the Pilot Project, will:

- Help manage high conflict family dynamics in probate/guardianship cases, so that the elder, family members and stakeholders can address non-legal issues without court involvement;
- Ready the elder and high conflict family to work with collaterals to address medical, financial and legal issues, avoiding delays and resulting in better decisions for the elder;
- Promote the self-determination of the elder to the extent of his or 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 have been ineffective.

V. Projected Outcomes of Pilot Project: Detail how the Pilot Project results may be measured or assessed and what outcomes are anticipated both short and long term. The Florida Chapter of the Association of Family and Conciliation Courts (FLAFCC) Task

Force and the ACR Task Force collaborated to create a project assessment consisting of pre- and post-surveys for the elder, other participants, and the Eldercaring Coordinator (included herein).

The success of this Pilot Project will be assessed by an independent research team and measured by:

1. reduction in hearings before the court in moderate and high conflict probate situations;
2. review of Eldercaring Coordination Surveys for elders and their families and stakeholders (e.g. professional guardians, other court appointed decision-makers, non-family members) that have participated in eldercaring coordination;
3. identification of and reduction of elder abuse, neglect, and exploitation;
4. increased use of community resources (e.g. physicians, guardians, geriatric care managers, occupational therapists, mental health counselors, social workers, elder mediation, legal services, etc.) to assist the elder and family;
5. development of a Pilot Project design that can be replicated statewide and nationally by other circuits interested in pursuing project goals and objectives.

The Pilot Project would, therefore, identify the # Judicial Circuit as a leader in developing this dispute resolution option for probate/guardianship cases. Based on the outcome of the Pilot Project, possible long range goals include:

- developing further discussion amongst stakeholders (professional, court, collaterals) regarding the expansion of eldercaring coordination in the courts when differences regarding eldercare exacerbate high conflict within families and with others in supportive roles for the elder;
- creating a possible program to refer parties for eldercaring coordination in high conflict cases;
- using existing and facilitating new research to study the implications of eldercaring coordination as a vehicle for high conflict management and the resolution of disputes regarding eldercare issues;
- exploring the ethical considerations and challenges in applying concepts used in the coordination process for parents with minor children to the elder population and existing legal frameworks for elders;
- expanding the definition of “family” within the context of the court;
- encouraging interdivisional collaboration between court divisions to conserve resources by utilizing them for families of all ages and life stages; and
- expanding the use of “coordination” as a dispute resolution option to address high conflict cases involving various situations and issues.

VI. Proposed Pilot Project Design: Explain who or what Division will implement the program and with what oversight.

This Circuit has a well-established Probate/Guardianship Division Case Management Unit that could assume the implementation of a Pilot Project for “Eldercaring Coordination” in collaboration with the Mediation/Arbitration Division and Family Court Services/Family Division (and/or Community Dispute Resolution Program).

For the purposes of this Pilot Project, each Eldercaring Coordinator would commit to the completion of (at least) ___ eldercaring coordination cases on a pro bono basis.

All Eldercaring Coordinators would also commit to meeting monthly with the Supervisor of Probate Case Managers, Supervisor of Family Court Services/Family Court Manager, the Director of Mediation/Arbitration and the Director of the Probate Division to review standards and develop protocols for the Pilot Project and for the Court's Probate/Guardianship Division to consider when reviewing outcomes and the possible benefits of the Pilot Project.

VII. Pilot Project Timeline: List specific steps toward implementation with expected time-frames for each.

Upon approval of the Pilot Project, the Supervisor of Family Court Services/Family Court Manager, the Director of Mediation/Arbitration and the Director of the Probate Division would begin the planning stage of the Pilot Project to:

- develop protocols (procedures/forms)
- train the Eldercaring Coordinators in circuit/court specific protocols
- educate Probate Case Managers and judiciary
- integrate implementation
- provide mechanism for assessment

VIII. Implementation: Describe in more detail the implementation process, how the program will be executed with eldercaring coordination integrated into the services provided by the court or community for high conflict cases involving elders. Include what triggers would identify a case that might be appropriate for eldercaring coordination and when in the court process the Eldercaring Coordinator could be ordered.

The elder and others in a supportive role may choose to enter the eldercaring coordination process voluntarily or through an Agreed Order of Referral to Eldercaring Coordinator. The Court may order parties to eldercaring coordination without their consent if it determines that:

a) there is evidence of neglect, abuse, or exploitation against the elder, or the elder's health, safety and well-being are in immediate jeopardy; and

b) the elder and other participants of the eldercaring coordination process have the financial ability to pay the eldercaring coordination fees and costs, or such services are available for an indigent party at no cost or low cost to that party as described below.

The Eldercaring Coordinator has the responsibility to determine who would be appropriate to include in the process, in addition to the elder and legally authorized decision-makers, and may change the list of participants over time.

An Eldercaring Coordination Court Pilot Project should have the capacity to test this model with participants of the eldercaring coordination process with a diverse range of financial means, including parties who are indigent. In selecting a judicial circuit for piloting the eldercaring coordination model, priority is given to those circuits which have public and/or private funds available to support this service for at least some indigent parties.

Eldercaring coordination could be offered to a Guardianship/Probate Division case at various points of entry in the legal proceedings. If the parties had not attempted elder mediation, and it

is available, they may first be diverted to that process. If the parties reach an impasse in mediation or are not amenable to the process initially, the court could designate eldercaring coordination to assist them in managing their conflict. The Mediation Division and Family Court Services/Family Division will work collaboratively to ensure that the parties have the most viable dispute resolution process available to them throughout their court experience.

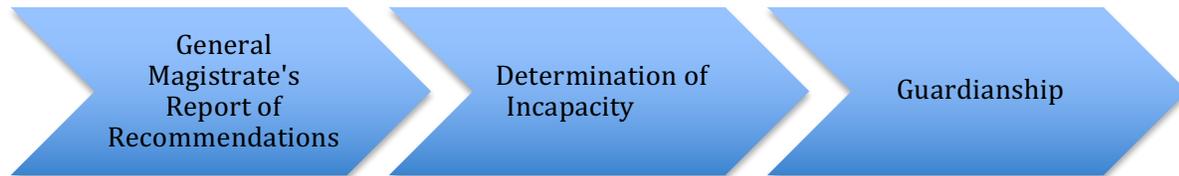
Examples of Case Conflict Identified as Appropriate for Pilot Project. Cases would be identified for participation in the Pilot Project according to the level of conflict between the elder, possible decision-makers (e.g. certain family members, guardian, others designated by the court), and other stakeholders (e.g. extended family members and significant others, attorneys, health care or other professionals, etc.). Identifiers of conflict levels would be further clarified for training purposes before the Pilot Project and reassessed during the Pilot Project and may include:

✓	MINIMAL/MILD CONFLICT
	Parties have legal issues but are usually cooperative
	Caregivers and others involved with the elder can usually separate elder's needs from own needs
	Family members and others in a supportive role validate and respect elder, even if elder is incapacitated
	Family members disagree but are able to maintain composure when together and when in court
	The elder and others in supportive role respect each other's value to the elder
	Tolerance for differences; flexibility to cooperate
	No risk of violence or abuse flagged
	Elder and others in a supportive role committed to same end goal
✓	MODERATE CONFLICT → Mediation
	Negative emotions are able to be brought under control
	Parties attempt to form coalition with other family members; sibling splitting
	Focus on blame
	Imbalance of power
	Verbally aggressive though no threat or history of physical violence
	Parties berate each other; threats of further litigation
	Devaluing others important to elder
	Involvement of lawyers for non-legal issues
	Parties have difficulty maintaining composure
	Discreet issue or few issues to be resolved
✓	HIGH CONFLICT → Eldercaring Coordination
	Mediation has reached an impasse
	Multiple motions to the court; high rates of litigation over non-legal issues
	Imbalance of power – some family members have attorneys and others do not or all parties self-represented
	Constant disputes about un-measurable or unsubstantiated items
	Possessive or controlling behavior toward the elder
	Difficulty in others separating elder's needs and desires from their own; high degree of rigid thinking; win/lose mentality
	Chronic disputes over access and support

Coalitions/sibling splitting entrenched
Possible endangerment of elder or other parties
History of domestic violence in family
Cross allegations of family members; possible safety concerns
Drug/alcohol abuse
Elder being denied access to family member(s) and/or significant others
Parties being denied access to information
When money is used as bargaining tool or being withheld for care of the elder
High emotionality expressed by parties in court; verbal abuse; loud quarreling
Parties are not able to work cooperatively with collaterals and resources for the elder
Number of collaterals/agencies involved
Others' conflict may place elder in jeopardy

If identified as “moderate conflict,” the case may initially be offered mediation; if identified as “high conflict,” the case would be ordered for eldercaring coordination. Additionally, cases that impasse in mediation would be referred to an Eldercaring Coordinator.

Points of Entry into the Pilot Project. Depending on the level of conflict observed by court personnel or alleged in court filings, a Probate/Guardianship case would typically be referred to Eldercaring Coordination at one of three times during the case:



General Magistrate’s Report of Recommendations.

Examples of cases with moderate conflict may be referred to mediation:

- Siblings want different social settings for parent: assisted living or in the home of one of the siblings;
- Siblings do not agree which is best suited to be guardian: one is professional with higher income who lives out of state and the other, with fewer financial resources resides near elder;
- Mother and son do not agree which medication to use for father, who has no lucidity when on the currently prescribed treatment plan – mother believes father is overmedicated and wants to change doctors while son believes medication is appropriate.
- Three siblings are competing to be Guardian for their sister.

Examples of cases with high conflict to be referred for eldercaring coordination:

- One sibling that will not give other siblings and their spouses access to parent;
- Current wife moved husband/father and won’t tell his children where;
- Sibling with greater financial resources, represented by attorney, wants to pay for corporate professional guardian instead of family member better suited.

Determination of Incapacity.

Examples of cases with moderate conflict may be referred to mediation:

- Two of three doctors of the Committee who evaluated the elder recommended limited or plenary (total incapacitation) guardian, one of the two siblings believe parent should have the limited right to vote and discretion to spend small amounts of money, the other sibling believes no money should be given to the parent.
- Parent believes he/she is slipping away and wants to volunteer to have professional guardian appointed, child does not agree.
- Parent home alone all day with dog, child wants parent to move in with her without the beloved dog.

Types of cases with high conflict to be referred for eldercaring coordination:

- Parent has limited capacity and wants right to marry – children disagree.
- Parent married person 20 or 30 years younger, children wanted to vacate or set aside the marriage.
- Elder's children split in wanting to remove right to take medication, treatment, drive, vote and marry; elder's fiancé, who resides with the elder, and her children believe capacity is not an issue.
- Parent made stepchild medical surrogate and biological children disagree.
- Ex-spouse, who has remarried and still been caring for elder, wants to be Guardian; a sibling of elder, who has not seen her in a year, is requesting to be Guardian.
- Elder's daughter has been caretaker, and elder's son is alleging she has cut him off from their father; he wants to be Guardian, kick sister out of the house and place parent in facility.

Guardianship.

Types of cases with moderate conflict may be referred to mediation:

- Guardian restricting family's access to the elder.
- Elder receiving care at home as delegated by guardian; children do not agree.
- The Guardian is not allowing access to or providing financial information about a parent; the child wants to be reconsidered for position or wants new Guardian.

Types of cases with high conflict to be referred for eldercaring coordination:

- Guardian wants to disconnect from feeding tube and children do not agree.
- Conflict between family members, as current wife and their children do not want former wife and children from prior marriage to have access.
- Siblings do not approve of guardian's decisions, interfering and frustrating the guardianship process.
- Guardian has formed alliance with one child and does not give access or information to another child.

IX. Execution of Eldercaring Coordination: Explain how the program itself would function, including practical aspects from start to finish (e.g. court order, affordability, safety precautions, documentation, term of Eldercaring Coordinator and complaints procedure.

Court Order. Elder and others in supportive roles may choose to enter the eldercaring coordination process voluntarily or through an Agreed Order to Eldercaring Coordinator. The Court may order parties to eldercaring coordination without their consent if it determines that:

- a) there is evidence of neglect, abuse, or exploitation against the elder, or the elder's

health, safety and well-being are in immediate jeopardy; and

b) the parties have the financial ability to pay the eldercaring coordination fees and costs, or such services are available for an indigent party at no cost to that party as described below.

Once identified for the project by the level of conflict, a standardized Order of Referral to Elder Coordinator be issued by the judge (see Exhibit A), specifying the definition of eldercaring coordination, the role and limitations of the Eldercaring Coordinator, the parties ordered to participate in the process including the name of the elder and all other legally authorized decision-makers for the elder, the preferred language/Family C, whether elder abuse, neglect or exploitation has been or is currently an issue, and the responsibility for fee payment for the Eldercaring Coordinator's services. A copy of the Order will be sent to the Director of Mediation/Arbitration/Supervisor of Family Court Services/court's designee to facilitate the referral. The parties will first be given the opportunity to choose their Eldercaring Coordinator within 10 working days from the date of the Order, after which time the court's designee will appoint a qualified Eldercaring Coordinator. Once chosen or appointed, the Eldercaring Coordinator will be responsible for submitting the Eldercaring Coordinator Response Form (see Exhibit B) notifying the court of his or her acceptance to the position.

Affordability, Fees and Costs. In determining whether a non-indigent party has the financial ability to pay the Eldercaring Coordinator's fees and costs, the court shall consider the party's financial circumstances, including income, assets, liabilities, financial obligations, resources, and whether paying the fees and costs would create a substantial hardship. The Court may include in its order the maximum fees and costs that each party is required to pay.

If a party is found to be indigent based upon the factors in statute, the court will only require eldercaring coordination if an Eldercaring Coordinator can work on a pro bono basis, or there are public funds available to pay the indigent party's allocated portion of the fees and costs, or a nonindigent party consents to paying the fees and costs for the indigent party.

If a party has caused the Eldercaring Coordinator to expend an unreasonable and unnecessary amount of time, the court may order that party to be solely responsible for payment of the Eldercaring Coordinator's fees and costs for such time expended. Failure to pay the Eldercaring Coordinator's fees and costs in a timely manner may subject the party to sanctions for contempt of court. The Eldercaring Coordinator may suspend services until the issue of fees is resolved.

The Pilot Project should have the capacity to refer individuals and families with diverse financial means for eldercaring coordination, including parties who are indigent. (In selecting a judicial circuit for piloting the eldercaring coordination model, priority should be given to those circuits which have public and/or private funds, or Eldercaring Coordinators that will provide services at low or no cost, available to support this service for at least some indigent parties.

Safety Precautions. The court's Order of Referral to Eldercaring Coordinator should include a provision for the court to acknowledge that the judge has confirmed that there are no reports of verified elder abuse, neglect, or exploitation as defined by statute and there are no domestic violence or other civil injunctions or criminal no-contact orders existing between the parties. The order should also state that the court inquired into whether there is a history of verified elder abuse or domestic violence involving any of the parties. If the court determines there is a history, the court must obtain consent of the elder and from all parties participating and establish

appropriate safeguards for the process. Accordingly, each circuit should have in place a process to screen out and/or develop specialized eldercaring protocols and procedures for domestic violence or abuse, neglect or exploitation cases.

An Eldercaring Coordinator must immediately inform the court if an abuse report is pending Adult Protective Services or if there is reasonable cause to suspect that an elder or a minor child will suffer or is suffering abuse, neglect, abandonment or exploitation or that someone is expected to wrongfully remove or is wrongfully removing the elder from the jurisdiction of the court without prior court approval. (See Exhibit C: Eldercaring Coordinator Report of Emergency.)

Eldercaring Coordinator's implementation of the Order. Upon referral, the Eldercaring Coordinator will contact the elder and legally authorized decision-makers, family members and other stakeholders identified by the court and the parties to obtain preliminary intake information and provide them with initial information about the eldercaring coordination process. The Eldercaring Coordinator will then schedule a joint appointment to explain the process to all of the parties jointly and begin their work together. The Eldercaring Coordinator is responsible to submit a Response Form to alert the court that he or she agrees to provide eldercaring coordination for each specific case in which it is ordered.

Documentation. The Eldercaring Coordinator will send in documentation to the court regarding the parties' adherence to the eldercaring coordination process (e.g. maintaining appointment schedule), if eldercaring coordination is not an appropriate dispute resolution option for that case or is no longer necessary, progress (e.g. specific decisions the elder and participants in the eldercaring coordination process have made), and outstanding items that require further direction from the court (e.g. non-compliance in following court order(s), issues requiring Court intervention). The Eldercaring Coordinator also provides documentation to the court when his or her term expires as Eldercaring Coordinator.

Original documents are sent to/filed electronically with the clerk's office for docketing, copies are sent to the parties, their attorneys, and Guardian, when appointed.

Additionally, the Eldercaring Coordinator is to notify the court of (1) an emergency, such as a verified abuse, neglect, or exploitation report or an injunction for protection or criminal arrest, or (2) the Eldercaring Coordinator has determined that it is no longer safe to continue the process, even with safety precautions in place. Upon receipt of such notice, the court should set a status hearing to determine whether to terminate the eldercaring coordination process.

Note: The Eldercaring Coordinator understands and complies with the duty to inform the appropriate authorities of suspected incidents of elder abuse, neglect or exploitation and/or risk to self or another in accordance with the reporting requirements of her or his respective jurisdiction and profession. When the Eldercaring Coordinator reports a matter of actual, suspected or potential harm to the proper authorities (law enforcement, protective services, etc.) as directed in his or her profession's code of ethics and/or the law of her or his state, province, or jurisdiction, the Eldercaring Coordinator will notify the court immediately (see Exhibit C: Eldercaring Coordinator Report of Emergency) and services of the Eldercaring Coordinator may be suspended while awaiting further direction from the court.

Term. The term of the Eldercaring Coordinator will be included in the Order of Referral to Eldercaring Coordinator, which is not to exceed two years. The court shall remove an

Eldercaring Coordinator if that Eldercaring Coordinator becomes disqualified to continue service or if a finding of good cause is shown based on the court's own motion or a party's written motion. Good cause includes, but is not limited to, the perpetration of elder abuse, neglect, or exploitation by the Eldercaring Coordinator; circumstances that compromise the safety of any person or the integrity of the process; or a finding that there is no longer a need for the service of the Eldercaring Coordinator. The motion and notice of hearing shall also be served on the Eldercaring Coordinator. The court may issue a subsequent Order of Referral to Eldercaring Coordinator to a new provider in the same manner as the original.

Complaints Procedure. Any party (or parties) in an eldercaring coordination process with a complaint about the conduct of an Eldercaring Coordinator shall provide a written complaint to the Coordinator. A party who wishes to include an advocate or neutral facilitator in the discussion shall first provide the Eldercaring Coordinator with a written complaint.

- a. If the party or parties are not satisfied with the resolution, they may submit to the presiding judge a written complaint showing good cause, with specific objection to the Eldercaring Coordinator's conduct.
- b. Following notice and a finding of good cause, the judge shall hold a hearing at which the Eldercaring Coordinator will have the opportunity to respond to the complaint. The Eldercaring Coordinator may suspend services temporarily while the complaint is pending.
- c. The judge may remove the Eldercaring Coordinator, based upon the merit of the complaint and other related issues deemed necessary, and may replace the Eldercaring Coordinator.
- d. If the judge finds the complaint without merit, the court may assess costs and attorney's fees against the party or parties submitting the complaint.
- e. The judge may forward the complaint to the regulatory body overseeing the Eldercaring Coordinator's qualifying licensure.

X. Standards and Protocols: Describe accountability and procedures including standardized forms such as those examples provided below.

The Supervisor of Family Court Services, the Director of Mediation/Arbitration and the Director of the Probate Division and providers will conduct meetings on a monthly basis in order to review the progress of cases, reassess the Pilot Project, develop standards and protocols, and create procedures and forms as needed.

Forms will be standardized according to the recommendations of the ACR Task Force on Eldercaring Coordination including, but not limited to, the following specific forms:

- Order to Eldercaring Coordinator (Exhibit A)
- Response Form notifying the court of the acceptance of the case by the Eldercaring Coordinator (Exhibit B)
- Eldercaring Coordinator Report of an Emergency (Exhibit C)
- Eldercaring Coordinator Request for Status Conference (Exhibit D)
- Eldercaring Coordination Process Surveys (Exhibit E)

XI. Budget: Explain what costs may be incurred, how the program will be funded, as well as how costs could be defrayed.

The costs to the Circuit for the Pilot Project are directly related to the time expended by the Supervisor of Family Court Services, the Director of Mediation/Arbitration and the Director of the

Probate/Guardianship Division, and court's designee to facilitate the referral to the Eldercaring Coordinator. However, inasmuch that their positions would include developing mechanisms and protocols that reduce court dockets, support the judiciary, and maximize resources of the court, most of their time would be included within their current job descriptions. Peripheral costs incurred would be for the necessary equipment and supplies (e.g. lap top computer, phone, copier, paper, and conference room located on premises).

XII. Oversight and Advisement: Include how oversight and overarching supervision will be provided, as well as guidance to optimize program execution and benefits.

A Pilot Project Advisory Committee (“Eldercaring Coordination Advisory Committee”) will be created and may include all or some of the following possible members: one legal representative designated by the court’s Legal Counsel one attorney experienced in Elder Law; one Elder Mediator qualified in eldercaring coordination; two Parenting Coordinators qualified in eldercaring coordination; one trainer in elder mediation; one professional Guardian; one geriatric care manager or social worker; one mental health professional who is licensed or certified by the regulatory body of her or his state, province, or jurisdiction and who meets ACR qualifications to be an Eldercaring Coordinator; and one expert in elder abuse, neglect and exploitation. The Director of the Probate Division, Director of Mediation/Arbitration, Director of Family Division, Supervisor of Family Court Services, one General Magistrate, and one Probate Judge will be standing members of the Committee. The purpose of the Eldercaring Coordination Advisory Committee will be to:

- provide guidance and consultation as the Pilot Project develops
- assist in the creation of forms, procedures and protocols upon request
- assist in the development of standards of practice
- assist in on-going assessment of Pilot Project
- provide evaluation of Pilot Project
- provide information and training in topics related to the Pilot Project
- promote ethical practices
- assist in the forging of collaborations of various professional disciplines that work with elders and their families

The Eldercaring Coordination Advisory Committee members will commit to quarterly meetings and to their availability for individual assistance upon request.

XIII. Pilot Project Tasks and Responsibilities: Detail the developmental and operational task, who would perform them, deadline, and anticipated outcome.

Key Activity	Responsible Person(s)	Time Frame	Outcome
Selection of Eldercaring Coordinators			
Selection of Advisory Committee members			
Scheduling Elder Mediation training			
Creating procedures			

(Standing members of Advisory Committee to approve)			
Creating forms (Standing members of Advisory Committee to approve)			
Training of Probate Case Managers			
Training of Judiciary			
Coordinate on-going training in elder issues			

XIII. Eldercaring Coordination Pilot Project Assessment: A representative of each Pilot Site will be invited to participate on the ACR Pilot Project Workgroup in order to provide support, exchange information, and confront challenges together. Additionally, a Pilot Project Assessment will be provided by the ACR Project Assessment Research Team, who will make available pre- and post- surveys for the elder, other participants and Eldercaring Coordinator in each case referred for Eldercaring Coordination. The ACR Project Assessment Research Team will be provided with the completed surveys which they will conduct their analysis. The information will be provided to all Pilot Project sites participating in order to continue to improve the process throughout the implementation of the Pilot Project.

IXX. Pilot Project Completion and Review: Include term of project and project assessment process.

The Pilot Project will be considered complete when at least six cases have completed the eldercaring coordination process through its term. The Advisory Committee may choose to modify this time period. Once the Pilot Project is completed, an assessment of the Pilot Project will be conducted by the Advisory Committee, which may include information provided by the ACR Pilot Project Assessment Team. The information will be presented to the Administrative Judge of the Probate/Guardianship Division, the Administrative Judge of the Family Division, the Trial Court Administrator, and the Chief Judge.

For more information, please contact ACR Task Force on Eldercaring Coordination Co-Chairs:

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