

*When family disputes meet an impasse, we recommend early intervention mediation before family relationships are destroyed by adversarial litigation.*

## Family Conflict Resolution

*By Nan Hayes for Caring Transitions®*

When older adults are facing major life decisions and adult children are drawn into the process, it is not uncommon for disputes to erupt as family members voice concerns over suitable housing, finances, family heirlooms, caregiving responsibilities or home safety.

"Often times our [Caring Transitions®](#) office is drawn into these family issues, which may slow progress or get in the way of important decisions." said Caring Transitions President Chris Seman. "When families reach an impasse, a neutral third party, such as a Family or Elder Mediator can facilitate productive discussions to help families establish an acceptable plan and move forward. When family disputes meet an impasse, we recommend early intervention mediation before family relationships are destroyed by adversarial litigation."

### What is Mediation?

Mediation is a form of alternate dispute resolution that is private, confidential and voluntary. Mediation can take place in an informal, comfortable setting such as a family home or mediator's office. In the case of elder mediation, special accommodation may be made to meet the needs of the older adult, such as meeting at a senior living community.

Mediators are conflict resolution experts and their objective is to help families with purposeful, productive conversations that ultimately lead to acceptable solutions and the ability to make future decisions. The mediator helps focus the dialogue so that protracted conflicts may be avoided and creative solutions may be developed by the family members themselves.

Adversarial courtroom proceedings tend to remove any sense of control or satisfaction from family members because the court system and applicable laws dictate the results. Protracted litigation rarely leaves any family members happy, as it will always provide a "win-lose" solution, as opposed to "win-win" solutions encouraged through mediation. In contrast to court proceedings, which may be drawn out and complicated by multiple appeals, mediation typically operates on a schedule that is structured to hold parties accountable and reach definitive solutions.

Mediation also promotes communication between multiple parties. In elder mediation, the process may include not only family members, but other professionals such as care managers and financial planners. If an attorney is needed, the mediator can provide a necessary referral.

An elder mediator will typically hold a meeting with the senior adult prior to the all-party negotiations so they have an opportunity to clearly understand the elder's position on the matters at hand. While the mediator cannot jeopardize their neutral position in the communication process, they must be able to establish trust with the older adult and be able to represent their opinion to others. Issues such as vision or hearing impairment, memory-loss and limited mobility

may serve to complicate these sessions and accommodations must be made. The mediator may also engage in separate meetings with the other parties either in person or over the phone.

## When is Mediation Recommended?

Early intervention is often recommended in elder mediation to avoid additional emotional and financial stress on what already may be a fragile older client. If issues are allowed to simmer too long, family members become entrenched in their views and confrontations turn explosive. The family dynamic is more manageable when members have the opportunity to express their views and air their grievances, which may include caregiver burnout, financial concerns and old sibling rivalries, in a calm, cooperative setting.

The National Care Planning Council's book, *"The 4 Steps of Long Term Care Planning,"* recommends families develop long term care plans before they may even be needed. If communications become strained in these early stages of discussion, they suggest individuals "consider having a professional mediator present. The mediator will be able to keep things calm and running smoothly and help work out each person's concerns."

Mediation is recommended for those families who, although in dispute or in need of direction, still have a desire to participate in the process and who truly wish to reach a settlement. It is not recommended and in most cases will not be allowed if there are any signs of coercion or abuse concerning the older adult. In cases where cognitive dysfunction has impaired the senior, an advocate will be assigned to represent their views.

## What Types of Issues are Mediated?

Health, housing, inheritance, financial and caregiving concerns are among the most common issues affecting families. In the mediation process, every family member is able to express their views and opinions in a collaborative setting. Take a situation where dad is having trouble paying his bills. Some family members may feel its time to take over dad's checking account. Others may feel he may no longer be mentally competent. Still others may have concerns allowing their siblings to manage dada's money. Chances are dad is going to fight the issue either way. In a mediation setting the family may be able to calmly reach an agreement that encourages dad will schedule a geriatric assessment, but for now he can maintain his independence with the support of a daily money manager.

### ■ Housing Issues

For many seniors, facing the decision to leave their home can be overwhelming. They become immobilized by the thought of leaving everything familiar for a foreign setting and often refuse to consider the financial and health benefits of a community setting. At the same time, adult children often insist their parents are being "selfish" and try to force them to move, instead of considering age-in-place remodeling and home care options. In many cases, the conversation become too stressful, feelings are hurt and decisions keep getting delayed. No one is really working on a solution and the situation typically ends in disaster when mom falls in her unsafe home or finances reach the crisis stage.

By working through a mediator, the family at least has the opportunity to explore and better understand the options so they can create a path for the future.

## ■ Inheritance and Assets

When families own businesses, real estate, artwork, jewelry, or antiques of significant value, strong emotions come into play when the possibility of [an estate sale](#) or disposition of such items needs to be discussed. Contested wills are known to be among the most volatile court battles. Siblings in different economic circumstances complicate inheritance decisions and the debate often becomes about what is “fair” instead of what is the best solution. When these issues end up in court, the family often sacrifices much of the assets’ value to court costs. Through mediation they may be better able to develop a plan that not only preserves the value of the treasured property, but also the family relationship.

## ■ Financial Decisions

Many adults have never had a conversation with their parents about family finances. For some senior adults, the topic is “off limits” and the more questions their adult children ask, the more tight-lipped they become. At the same time, the adult children grow increasingly concerned about the cost of long-term care, housing expenses and their parents’ ability to live comfortably day to day. Mediation allows families a chance to discuss finances and often to work with a professional to establish a long-term plan.

## ■ Health and Medical Treatment

When it comes to treatment, the views of adult children may often differ from the seniors’. Such time of family crisis is not the time to let unresolved rivalries take hold and negatively affect the older adult’s health. Mediators can often help siblings voice their concerns and listen to the advice of experts that may otherwise not be heard in the process. In the case where dementia, Alzheimer’s and mental incapacity may be of concern, mediation may be able to provide solutions and help parties understand the various support options, and in some cases, prevent unnecessary guardianship.

## How Do I Find a Mediator?

There are many ways to find a mediator, including internet searches such as the [American Arbitration Association](#) website. You may also consult your local phone book, state bar association or your local senior services or area agency on aging. Mediators typically charge by the hour and rates will vary based on specialty and the geographic market in which you live.

In the long run, elder mediation is about helping adult children hear their parents’ views while having a chance to voice their own. By meeting with a neutral, professional third-party, families have the opportunity to come together on issues and find solutions they can live with, rather than be divided by dispute.



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## About Caring Transitions

As life changes, it may become necessary to leave a familiar home and part with personal belongings in order to downsize and relocate to a smaller home or retirement community. At Caring Transitions, we help our clients understand the process, evaluate their options and make informed decisions that suit their best interests. We are committed to making each client's experience positive by minimizing stress and maximizing results.

Visit us online at [www.CaringTransitions.com](http://www.CaringTransitions.com).

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