

Code of Professional Conduct for Mediators Specializing in Issues of Aging

Fourth Edition

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Endorsed by:

Family Mediation Canada
Mediation PEI Inc.
Alzheimer Foundation of PEI
Ontario Association for Family Mediation
Mediator's Institute of Ireland
The Mediation Association of Switzerland
Elder Mediation Australasian Network
Elder Mediation International Network

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(Also available in German & French)

Table of Contents

1. Scope of the Code/Definitions	2
2. Goals of the Elder Mediation Process	4
3. Guiding Principles	4
4. Professional Responsibility	5
a) Relationship with Participants	5
b) Confidentiality.....	5
c) Impartiality.....	6
d) Ability to Participate	6
e) Fair Negotiations.....	7
f) Information and Advice.....	7
g) Agreement to Mediate	7
h) Multi-party mediation	8
i) Written Summary.....	8
j) Termination of Mediation.....	8
k) Mediation Fees.....	9
5. Inter-Professional Relations	9
a) Cultural Sensitivity.....	9
b) Outreach and Promotional Activities.....	9
c) Advocacy.....	10
6. Skills Required of the Mediator	10
a) Knowledge and Communication Skills	10
b) Relationship Skills.....	11
c) Content Management Skills	11
d) Process Skills.....	12
e) Conflict Management Skills	12
7. Training Requirements and Components	12
a) Pre-requisites	12
b) Minimum Training.....	13
c) Training Boundaries and Options.....	15
d) Core Knowledge	15
8. Knowledge Regarding Elder Abuse	16
9. Wellness and Prevention	16

1. Scope of the Code/Definitions

This Code is a set of standards of professional behaviour. It applies to mediation involving any issues of aging as well as challenges that arise as a result of cognitive and other disabilities.

1. The *Code* enables the mediator to have clarification regarding the nature of ethical responsibilities.
2. The *Code* establishes principles that define ethical behaviour and best practices of mediators.
3. The *Code* serves as an ethical guide designed to assist mediators in constructing a professional course of action that best serves those utilizing mediation services and best promotes the values of the elder mediation profession.
4. The *Code* serves to govern the working relationships of mediators who specialize in issues of aging.
5. The *Code* serves to ensure that all those who engage in the mediation process benefit from evidence based models.
6. It is expected that a mediator will observe the spirit as well as the letter of the provisions of the *Code*.
7. It is expected that a mediator committing to this code will have special training in elder mediation and general issues of aging.
8. The *Code* serves as the basis for processing of ethical complaints and inquiries initiated against a mediator.

Definitions

Abuse

The World Health Organization defines elder abuse as a single or repeated act, or lack of appropriate action, occurring in any relationship where there is an expectation of trust that causes harm or distress to an older person.

Co-mediation

Co-Mediation is the harmonious working of two complementary mediators who each have a clear idea of their role and responsibilities within the mediation process. The mediators offer a diversity of skills, experience and personality.

Culture

Culture is defined as a set of values, norms, behaviours, and symbols shared by a group of people and influenced by ethnicity, gender, age, socio-economic status, national origin, religion,

immigration status, sexual orientation, disability, physical appearance, occupation or profession, geographic setting and unique family norms.

Elder Mediation

Elder mediation is a focused, respectful process – usually multi-party, multi-issue and intergenerational - whereby a trained elder mediator ensures, as much as possible, that all who need to be are present in the mediation. The mediator facilitates discussions focusing on present strengths and assists participants in exploring any issues or concerns. This form of mediation often involves the many people related to the issues, such as family members, caregivers, organizations, agencies and a variety of service providers and networks. A successfully mediated outcome is one where the quality of care and the quality of relationships have been maximized for all participants.

Elder Mediator

An elder mediator is a person who is professionally trained in elder mediation practices along with its preventive and wellness aspects. The elder mediator facilitates communication among multiple participants and assists them toward mutually beneficial outcomes.

Elder Mediator Training

Elder mediator training is defined as a process through which a person acquires the knowledge and skills required for carrying out the best practices of elder mediation.

Family Conflict

Family conflict is defined as a disputed issue within any family structure which may also involve extended family members, hospitals, care homes, agencies or organizations.

Mediation

Mediation is defined as a co-operative, problem-solving process in which the mediator assists participants in establishing open communication about the issue/concern and supports efforts for the achievement of voluntary, mutually agreeable and sustainable solutions.

Mild Cognitive Impairment (MCI)

MCI is defined as a level of cognitive and/or memory impairment beyond that expected for normal aging but not sufficiently advanced to be called "dementia" or "Alzheimer's disease". It is estimated that 85% of people with MCI will develop Alzheimer's disease within ten years, making MCI an important risk factor for the disease. Researchers believe that abnormal changes in the brain may begin as early as 5-10 years before there are signs of Alzheimer's disease.

Participant

Participant is defined as the person/people involved in the elder mediation process who have equal standing in contributing to mutually acceptable solutions.

Shuttle Mediation

Shuttle mediation is a process in which the participants, with the assistance of a mediator, endeavor to reach an agreement without being physically brought together. The mediator may

move between parties who are located in different rooms, or meet different parties at different times for all or part of the process.

2. Goals of the Elder Mediation Process

- to be person-centered;
- to have conversations in mediation that result in fair and workable agreements that consider the participants' shared needs while addressing immediate concerns;
- to be preventive in nature while promoting wellness;
- to recognize the responsibility of all participants to honor their agreements;
- to help the participants to communicate openly and to come to a deeper understanding about the situation(s) being addressed;
- to recognize that not all mediations will lead to mutually agreeable outcomes.

3. Guiding Principles

Person-centered

Supporting and honoring the people and partnerships amongst all concerned participants (individual, family, family support systems, care providers) while ensuring the preservation of self-determination, dignity and quality of life at all times.

Respect

Ensuring integrity and fairness and that all participants are respected and valued during the mediation process. Mediators are committed to using respectful, inclusive language.

Responsibility

Maintaining accountability for achieving a viable outcome within the elder mediation process.

Equity

Promoting equity of all participants in the mediation process regardless of gender, age, culture, religion or socio-economic status.

Collaboration

Working in partnership with others to support the best outcome as determined by the participants.

Quality

Ensuring the elder mediation process is based on the results of evidence based research.

Timeliness

Ensuring the mediation process is conducted in an efficient and timely manner.

4. Professional Responsibility

a) Relationship with Participants

- Elder Mediators will have an arms-length relationship with all participants.
- Elder Mediators who are close to the participants must declare their interest or a perceived interest.
- Elder Mediators may rarely consider disputes involving close friends, relatives, colleagues or students. (It is recognized in some cultures and situations only an elder mediator of the same or similar culture will be accepted, and in those circumstances an existing familial or collegial relationship is permitted as long as there is full disclosure.)
- At no time should the elder mediator force an agreement among participants or make a decision on behalf of any participant.
- The elder mediator has a responsibility to ensure, as far as possible, that all participants are fully aware of the interests of everyone involved in the mediation and thus enabling them to appreciate separate and individual needs.
- The elder mediator has a responsibility to keep in mind the abilities and capacities of participants to engage in the process.

b) Confidentiality

The elder mediator shall not disclose to anyone who is not a party to the mediation any information obtained through the mediation process except:

- When the information discloses an actual or potential threat to human life or safety;
- When the participants agree to an open mediation process;
- When the information discloses actual or potential abuse;
- When ordered to do so by a judicial authority with jurisdiction to compel such disclosure, or required to do so by legislation or other law;
- When the participants have provided written consent as part of the mediation contract for the release of non-identifying information for research or educational purposes.
- Any information so divulged shall be limited to what is absolutely necessary or agreed.
- The elder mediator shall inform the participants at the outset of mediation of the limitations to confidentiality and under what circumstances confidentiality would be breached.
- The elder mediator must clarify with the participants that confidentiality extends not only to the information disclosed during mediation, but also to documents prepared specifically for or resulting from mediation except where otherwise agreed by all participants and the mediator.
- When appropriate, the elder mediator must ask the participants to sign a release form that allows the mediator to share information with professionals but who may or may not be involved in the process at the outset.
- With the participants' consent, the elder mediator may discuss the mediation with the participants' lawyer, and other expert advisors.
- Where the participants reach an agreement, the substance of the proposed agreement may be disclosed to their respective representatives as requested.

- The elder mediator must ensure that the storage and disposal of client records respects the confidentiality such records require and be in accordance with the mediators professional association standards.

c) Impartiality

- The elder mediator has a duty to maintain impartiality with respect to the participants and their issues.
- Notwithstanding the above, the elder mediator's responsibility is to ensure that all participants needs and positions are clearly and fairly presented so that participants appreciate the circumstances of all those involved.
- The elder mediator must ensure that vulnerable persons have an equal voice and a fair hearing of their concerns even if that requires the presence of an advocate for said person or agreement of what person(s) will represent the vulnerable person(s).
- Despite an elder mediator's best efforts, there may be a perception of bias by one or more of the participants. The elder mediator must address their concerns about bias and remind all parties of their right to terminate the mediation.
- The elder mediator must disclose to the participants any biases they have relating to the issues to be mediated and any circumstances that may constitute or cause a conflict of interest, real or perceived, to arise. Such disclosure must be made as soon as the mediator recognizes the potential for any bias or conflict of interest arising.
- The elder mediator must always disclose any prior or current professional or personal involvement which they have with any of their associates or with any of the participants.
- The elder mediator must refrain from mediating unless every participant expressly consents to the mediation after there has been full disclosure. In this case, the role of the mediator should be carefully distinguished from the prior relationship.

d) Ability to Participate

- When providing mediation services to people who are unable to give voluntary consent, elder mediators must include them or their representatives in decision making as appropriate. Elder Mediators must recognize the need to balance the ethical rights of participants to make choices. Elder Mediators need to recognize participants' capacity to give consent or agreement to mediation services.
- The elder mediator must explore whether the participants are cognitively capable of engaging in the mediation process or if there are family members who are able and appropriate to represent the person's wishes. If the elder mediator believes that any participant is unable to participate meaningfully, and if there is no appointed guardian *ad litem* or there is no agreement on who could be the spokesperson, they must suspend or terminate the mediation and encourage the participants to seek appropriate professional help. The elder mediator ensures that all voices are represented in the mediation process.
- The elder mediator must ensure that each participant has an opportunity to understand the implications of available options. Should a participant need additional information or assistance for negotiations to proceed in a fair, orderly and inclusive manner or for an agreement to be reached, the mediator must refer the person to appropriate resources.

- If an advocate has been appointed for a participant who is not capable of consent, the elder mediator has a responsibility to that person (the person who is not capable of consent). The elder mediator and the advocate will establish the level of participation in the mediation process. (Depending on the jurisdiction concerned, the mediator must inquire as to the provisions of a living will, Power of Attorney or similar legal documents that protect the wishes of the vulnerable person.)

e) Fair Negotiations

- The elder mediator must endeavor to ensure that the participants reach agreements with informed consent, freely, voluntarily, and without undue influence.
- The elder mediator has a duty to ensure procedural fairness—that each participant has an opportunity to speak, to be heard and to articulate their own needs, interests and concerns.
- The elder mediator has a duty to ensure balanced negotiations and must not permit manipulative or intimidating tactics on the part of any participant.
- It is a fundamental principle of mediation that competent and informed participants can reach an agreement that may not correspond to legal guidelines contained in the relevant statutes or case law or that does not correspond with general community expectations and standards. However, the elder mediator has a duty to help the participants assess the feasibility and practicality of any proposed agreement in the long and short term, taking cultural differences into account.

f) Information and Advice

- It is the duty of the elder mediator to actively encourage the participants to make decisions based upon full and available information, knowledge and advice.
- Every elder mediator has an ongoing obligation to advise participants of the desirability and availability of independent legal advice. While legal information may be made available to the participants, each should be encouraged, and in appropriate circumstances, obtain independent legal advice.

g) Agreement to Mediate

- The elder mediator must explain the mediation process clearly to the participants before agreeing to mediate their issues. In particular, the mediator should:
 - define and explain mediation and distinguish it from reconciliation counseling, conciliation, therapy, assessment, advocacy, adjudication and arbitration;
 - discuss the potential benefits and risks of mediation for the participants in light of their particular circumstances and the alternatives available;
 - discuss the confidentiality of mediation and the limitations on confidentiality;
 - advise the participants that they or the mediator have the right to suspend or terminate the process at any time;
 - make explicit the costs of mediation, and reach an agreement with the participants regarding payment;
 - advise the participants of the role and importance of legal advice;

- discuss with the participants the mediator's specific procedures and practices, such as caucusing:
 - when and why separate sessions for individual participants may be held, including any rules relating to the confidentiality of such sessions;
 - when and why there are to be separate communications with the participants and their counsel;
 - when and why other persons are to be involved in the mediation;
- Any agreement regarding the confidentiality of the mediation sessions or any waiver of such confidentiality must be acknowledged by all participants.
- If the elder mediator feels, at any point, that a mediation process is beyond the scope of his or her professional abilities, s/he must inform the participants of that fact and discuss how best to proceed.

h) Multi-party mediation

- The elder mediator has a responsibility to the participants to ensure that all family members who are interested in providing support, or others who are primary caregivers to a dependent person, are invited to partake of the mediation process.
- The elder mediator must encourage reluctant participants to participate by making them aware of the benefits of participation.
- The elder mediator must be aware that not all participants need to be part of the whole mediation process: there will be an ebb and flow of participation.
- The elder mediator must make the appropriate technology available so that participants who cannot attend in person can still contribute to the sessions.

i) Written Summary

- If requested, a written summary of the agreements will be provided.
- The elder mediator must inform the participants that any written summary of mediation is not intended to represent a legally binding document and therefore need not be signed except in countries where required by law or court practice.

j) Termination of Mediation

- It is the duty of the elder mediator to suspend or terminate mediation whenever continuation of the process is likely to harm one or more of the participants, such as when mediation is being misused:
 - to dissipate or conceal assets; or
 - where, in the opinion of the elder mediator, one or more participants are acting in bad faith.
- The elder mediator may withdraw from mediation when they believe that any agreement being reached by the participants is unconscionable.
- The elder mediator recognizes that the participants have the right to terminate mediation. It is the mediator's duty to address concerns about the process with regard to termination, and respect this decision if, having attempted to have this discussion, it is the desired outcome of the participants.

k) Mediation Fees

- The elder mediator will explain the fees to be charged for mediation, as well as any related costs at the beginning of the contact. The mediator must also obtain agreement from the participants as to how the payment of fees is to be shared and the method of payment.
- No commissions, rebates or similar forms of remuneration shall be given or received for referral of people for mediation services.
- It is inappropriate for the mediator to base fees on the outcome of the mediation process.
- When a retainer has been collected before mediation services were rendered, any unearned fees should be returned promptly to the clients upon termination of mediation.

5. Inter-Professional Relations

The elder mediator must respect and invite complementary relationships between mediation, legal, mental health and other services and care providers and be aware of community resources appropriate for referral. The elder mediator should promote co-operation and awareness with other professionals and be aware of their ethical responsibility to encourage clients to use other professional resources when appropriate. When more than one elder mediator is acting in a particular case, each has the responsibility to keep the other(s) informed of developments in the co-mediation process.

a) Cultural Sensitivity

Elder mediators must communicate information in ways that are both developmentally and culturally appropriate through the use of clear and understandable language. When discussing issues where participants have difficulty understanding the language used by the mediator, the necessary services should be arranged (e.g., a qualified interpreter or translator) to ensure comprehension by participants. In collaboration with participants, mediators must consider cultural implications on the proceedings and, where possible, mediators should adjust their practices accordingly.

- The elder mediator must be sensitive to cultural influences that may affect the mediation process and try to develop a mediation process that is sensitive to their cultural circumstances.
- Elder mediators may withdraw from mediation when participants' cultural values are in conflict with their personal values; and must withdraw when the participants' cultural values are in conflict with this Mediation Code.

b) Outreach and Promotional Activities

- The purpose of outreach concerning elder mediation should be to:
 - educate the public about the mediation process;
 - present the process of mediation objectively as one of several methods of dispute resolution.

- When advertising professional services, publicity should be restricted to describing the mediator and the services offered: name, contact co-ordinates, office hours, relevant academic degree(s), relevant training and experience in mediation, appropriate professional affiliations and membership status, advantages of the mediation process and any additional relevant or important consumer information.

c) Advocacy

Advocacy refers to speaking or acting on behalf of a group or persons to ensure their rights are protected.

- Upon request, an elder mediator may from time to time act as advocate for a vulnerable person if it is apparent that the vulnerable person is being denied a full hearing or voice.
- An elder mediator must not continue with the mediation process until all participants are assured of a fair voice and must advocate for equity regarding input into the mediation process.
- An elder mediator may also act as advocate on behalf of the mediation process when that process is not understood by a group, person or organization.

6. Skills Required of the Elder Mediator

An elder mediator must perform his or her services in a conscientious, diligent and efficient manner in accordance with the Code and ensure that they are competent to deal with age-related and other specific issues involved throughout the process.

a) Knowledge and Communication Skills

- An elder mediator shall have acquired substantive knowledge and procedural skills as demonstrated by the successful completion of a recognized training program.
- An elder mediator must be mindful of the wellness and preventive aspects of the specialty of elder mediation.
- A training program should be affiliated with a professional organization that has expertise and is dedicated to the specialty of elder mediation.
- Elder mediators are encouraged to be certified through a credible process where a consistent, recognized standard is upheld and promoted.

Communication Skills

An elder mediator should possess the following communication skills and have the ability to use and apply each effectively. The elder mediator must be able to assess the cultural relevance and appropriateness of each skill, and to choose from and apply only the skills appropriate to the particular mediation and to the particular participants, as well as the particular culture:

- empathic listening and responding appropriately and without judgment to feelings, thoughts and situations;

- speaking in terms of interests, rather than in terms of positions;
- reframing negative comments in neutral terms;
- moving from weaknesses to strengths;
- clarifying information and assumptions;
- summarizing communications and consolidating areas of agreement;
- questioning, when culturally appropriate, to elicit information, feelings, fears and perspectives;
- clarifying participant discrepancies, distortions or inconsistencies;
- displaying empathy and understanding without personal partiality or bias;
- acknowledging the importance and validity of multiple participant perspectives;
- giving constructive feedback;
- working effectively with an interpreter;
- demonstrating and promoting sensitivity to verbal and non-verbal behaviours;
- speaking clearly, simply and effectively at the communication and comprehension level of the participants;
- regulating the pace and the flow of the communication in accordance with participant needs;
- to be able to acknowledge and appreciate that non-verbal communication is as central to the communication as the spoken word.

b) Relationship Skills

An elder mediator should form, support and maintain effective relationships, using a person-centered philosophy with the participants by:

- creating rapport;
- establishing trust;
- demonstrating respect for the participants;
- encouraging mutual respect among all participants;
- being supportive and impartial;
- protecting and affirming all of the participants' rights to self-determination.

c) Content Management Skills

An elder mediator should:

- obtain, identify, organize, analyze, prioritize and evaluate information;
- elicit from participants the meaning for them of their own culture in the context of the particular issue being discussed;
- assess the issues and options and reason logically;
- elicit information from other professionals (such as physicians, appraisers, actuaries, accountants, mental health professionals, lawyers) in the mediation process;
- use and exchange information so that it broadens rather than limits the participants' options;
- Use relevant written materials appropriately;
- write clearly and concisely, using unbiased and neutral language;
- organize records and materials;

d) Process Skills

An elder mediator should demonstrate the following process skills:

- ability to assist the participants in negotiating the process and in setting the ground rules and agenda for mediation sessions;
- ability to ascertain whether, as the elder mediator, s/he is qualified in terms of culture and knowledge of the issues to mediate the dispute;
- ability to help participants to explore interests, values and perspectives;
- ability to acknowledge and manage power imbalance;
- ability to assist the participants in converting positions into interests;
- ability to caucus appropriately;
- ability to assist participants in adhering to the agreed agenda and/or to renegotiate the agenda;
- ability to direct the process without overriding the participants' self determination;
- ability to encourage and guide the participants through the mediation process;
- ability to assist participants in working with other professionals/experts as required;
- ability to use effective co-mediation or conciliation skills when required;
- ability to evaluate self, participants and the process.

e) Conflict Management Skills

An elder mediator should have the following conflict management skills:

- ability to know how and when it is culturally and personally appropriate to:
 - allow or disallow emotional ventilation;
 - focus attention of the participants on the present and future rather than the past;
 - focus participant attention on the problem, not on the people;
 - to defuse participant tension and distress;
- ability to manage crises;
- ability to assist the participants to become more integrative and co-operative;
- ability to enable the participants to gain an understanding of the implications of withdrawing from mediation;
- ability to help participants to overcome impasses;
- ability to assist participants to understand the consequences of their decisions;
- ability to assist participants with option-building techniques such as:
 - broadening the number or scope of options;
 - building new solutions by integrating the interests of all participants;
 - trading concessions of lesser importance for concessions of greater importance;
 - bridging the positions and interests of the participants;

7. Training Requirements and Components

a) Pre-requisites

A formal degree in a related discipline is required as a prerequisite to elder mediation training. Specialized training and experience in issues of aging is necessary.

b) Minimum Training

Basic Mediation:

- at least 100 hours of basic conflict resolution and mediation theory education and skills training, including at least 10 hours' training on the cultural dynamics of conflict and conflict resolution processes;
- at least 100 hours of further related education and training, including at least 21 hours of training on elder abuse, neglect and control issues, which may include:
 - safety issues in mediation;
 - abuse and danger indicators;
 - the dynamics and effects of abuse on all family members;
 - assessment tools and techniques to detect abuse;
 - cultural factors that affect disclosure and options in abuse cases;
 - criminal and civil procedures and protection orders (including strengths and limitations of) that may be of assistance to victims of abuse;
 - ethical rules and standards of practice for mediators in abuse cases;
 - adult guardianship and wardship
 - processes and methods that can be used to provide additional protection to participants in mediation processes;
 - safety planning and safe referral techniques;
 - referral sources for assistance to abused family members;
- at least 7 hours of training on ethical issues relating to the mediation process;
- at least 3 hours on drafting memoranda of understanding;
- additional training in cultural understanding that promotes awareness, acceptance of, and respect for cultural values and beliefs;
- annual continuing education to ensure that elder mediation skills are current and effective.

Elder Mediation - examples:

- dynamics of normal aging and family relationships;
- Alzheimer's Disease and other progressive dementias;
- elder abuse;
- community support services for seniors and their families;
- living arrangements;
- grief and loss issues;
- guardianship
- legal issues related to health decision making and power of attorney;
- culture and aging.

Details to be considered for inclusion in training:

- Dynamics of Normal Aging and Family relationships
 - issues of awareness regarding physiological changes
 - issues of changing family roles

- issues of ageism
- Dementia and Alzheimer disease
 - screening for dementia and knowledge of assessment tools
 - age related loss, Alzheimer's Disease and other dementias
 - caregiving
 - impact of dementia on quality of life on the person and the family
- Elder Abuse
 - types of abuse and neglect
 - signs and symptoms of abuse
 - reporting of elder abuse
 - legislation and criminal code
 - root causes of abuse
 - safety planning
- Grief and Loss
 - Definitions and grief processes
 - Anticipatory grief
 - Impact of grief on participants
 - Referral sources
- Community support services
 - awareness of services and service providers
 - communication with service providers
- Living Arrangements
 - communication regarding choice of living arrangements
 - environmental modifications of the family home and maintenance of the family home
 - change of residence – assisted living and long term care
 - quality of care
- Legal and Financial Issues:
 - designation of health care decision maker
 - wills, living wills and power of attorney
 - health care directives
 - assets and financial arrangements
 - referral sources
- Guardianship/Wardship issues.
 - decision-making
 - capacity
 - guardianship and relevant acts
- Culture and Aging
 - understanding influence of culture on response to aging parents

- appreciating unique ethnic value systems and perspectives
- issues of traditional versus modern approaches to family life

c) Training Boundaries and Options

- While elder mediators may have a diversity of education and training, they must refer to other professionals for services they are competent to provide while acting in the capacity of an elder mediator.
- All potential elder mediators should obtain training in elder mediation from programs that are taught by people clearly knowledgeable in the field, preferably who are certified elder mediators, as well as knowledgeable in education and adult learning theory.
- Elder mediators may include courses specific to elder mediation taken as part of their professional degree or elder mediation related courses offered by community colleges and universities.
- Elder mediators may consider participation in workshops, training institutes, and conferences that deal specifically with mediation and elder mediation and issues relevant to the practice of mediation.

d) Core Knowledge

- An elder mediator should demonstrate knowledge of the literature, research, skills and techniques associated with the following:
 - elder mediation theory and philosophy
 - negotiation, conciliation and conflict management
 - mediation theory and methodology
- Further, an elder mediator should have a good working knowledge of:
 - issues of aging and family dynamics;
 - legal information pertaining to the issues being mediated;
 - the dynamics and effects of abuse, coercion and control in families and institutions;
 - multicultural issues;
 - professional, academic, community and educational resources for referral or use within the mediation process.
 - participant communication styles and mediator/participant interaction;
 - the implications and meaning of culture for the mediation participants, with particular attention to issues such as:
 - the appropriateness of direct face to face expression;
 - grief and loss norms
 - confrontation and disclosure;
 - norms in relation to the expression of emotion;
 - patterns of linear and non-linear expression and argument;
 - culturally appropriate conflict resolution communication patterns and methodologies;
 - actual and perceived power imbalances produced by perceptions of cultural or socio-economic status and power;
 - cultural misinterpretations between or among participants;
 - the potential for misinterpretations of verbal expression and body language.

- other conflict resolution options;
- ethical and moral issues that may arise during mediation.
- ethical responsibility to refer to appropriate providers

8. Knowledge Regarding Elder Abuse

Elder abuse should be an immediate concern when a mediator is asked to mediate an elder mediation issue that involves older family members. It is important to be particularly diligent when the issues center on a family member who may have a cognitive impairment. Therefore, the elder mediator must have the following skills and awareness regarding elder abuse:

- ability to assess for abuse and evaluate the appropriateness of mediation;
- competence to take steps to ensure that information about dates, times, locations of abuse assessments, residential addresses and telephone numbers are not disclosed, unless abuse is present, to other family members or participants in cases involving abuse;
- an awareness as to when and if to refer the case to another professional, with expertise in abuse matters, for intake screening and assessment to determine whether abuse has affected a participant's ability to participate;
- an understanding that mediation of the issue of abuse is never appropriate.

Where Abuse is Identified or Suspected

- When in doubt, the proper course of action is always to assume that face-to-face, facilitated elder mediation will be inappropriate in cases involving past or present abuse. Alternatives to mediation such as shuttle mediation may be offered in serious abuse cases, but only by practitioners who have specialized education and training in this area.
- Elder mediators should inform all participants that mediators are not neutral in issues of abuse or safety and have a legislative duty to report past and present abuse, (if relevant that a vulnerable person is in need of protection under relevant legislation) and threats of future abuse or harm.
- Elder mediators have a duty to step out of a neutral role and to act to protect the vulnerable if a formerly abusive partner engages in intimidation or abuse during a mediation or shuttle negotiation process. Usually such behaviours will result in ending the mediation and referral to a service or process that offers additional protection.
- The elder mediator must take special care to ensure that any agreements reached in a case involving abuse are products of genuine agreement and not merely the product of financial or psychological vulnerability.

9. Wellness and Prevention

The specialty of elder mediation has a preventive component. If people know about the service and are referred early enough, conflict is often prevented. Participants and families attending mediation sometimes come to agreements as to how they will share the care before the care is needed. Present care needs are identified and often anticipatory care needs are discussed. Workable plans that include as many as wish to participate are put in place. This in turn, impacts

on the quality of life for all who participate in the process. Elder mediation is emerging internationally as an important step in the continuum of care, prevention and quality of life.

Many national organizations are aware of the value of elder mediation and are anxious to include elder mediation as part of a continuum of quality care. However, they first need to be convinced that the elder mediators to whom they are referring are informed and qualified both in mediation practices and processes as well as are knowledgeable of - and sensitized to – age related issues.

“People working in the Alzheimer’s Society need to feel confident that if they suggest elder mediation to families, the elder mediators have been trained and sensitized to the unique needs of people living with dementia and the families who support them. Having an easy- to -access list of mediators trained in elder care would be very beneficial.” – Mary Schulz, Senior Manager, Information, Support Services and Education, Alzheimer Society of Canada

“Elder Mediators are becoming more and more sensitized to the necessity of certification and thus the world now has access to more elder mediators who adhere to a standard. It is an ethical responsibility for all who work with families to inform them about elder mediation. As referral agents no one has the right to decide for the family whether they would need mediation or not. This is a family decision that can only be made if people understand what mediation is. Then, the family are the ones who decide if they are willing to use the mediation process, pay for the mediation process, and take the time to discover where this might lead them.”

Lynn Loftus, (Presentation at the ADI 2007 International Congress, Caracas, Venezuela.)

***(People are invited to use this document and asked to please quote the source.
Ongoing input is encouraged and welcomed- judy@peopleconcepts.ca)***

Thank-you

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Gerry Schoel – Past President, Family Mediation Canada and Executive member of AMFQ

Frank Bulger – Past President, Mediation PEI Inc.

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Judge Michael Porter – Past President, Family Mediation Canada
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