

**ASSOCIATION FOR CONFLICT RESOLUTION (ACR)
TASK FORCE ON ELDERCARING COORDINATION**

ACR is a professional organization enhancing the practice and public understanding of conflict resolution.

ELDER JUSTICE INITIATIVE ON ELDERCARING COORDINATION

In a ground-breaking effort to improve the lives of elders and families involved in high conflict litigation, the ACR Task Force, composed of twenty US/Canadian organizations, collaborated with the twenty statewide organizations in the Florida Chapter of the Association of Family and Conciliation Courts to develop ELDERCARING COORDINATION:

“...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.”

Six states are participating as Pilot Projects in Eldercaring Coordination including Florida, Indiana, Idaho, Ohio, Maryland, and Minnesota, and are leading this effort to:

- help manage high conflict family dynamics so that the elder, family, and stakeholders can address their nonlegal issues independently from the court;
- ready the elder and family to work with collaterals to address medical and financial issues, avoiding delays and resulting in better decisions for the elder;
- promote as fully as possible the self-determination of the elder to the extent of his or her ability;
- 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;
- free precious judicial time by addressing matters for which dispute resolution processes have been unavailable or have been ineffective;
- promote interdivisional court collaborations to conserve court and community resources;
- enhance the definition and perception of “family” within the court to include older families with aging parents;
- expand the use of “coordination” as a dispute resolution method to address high conflict cases involving various situations and issues;
- encourage positive intergenerational influences, bringing healing to families as they adjust to their loved one’s changing needs and enable family members to remain available to one another for comfort and support when the elder is gone.

The Task Forces envision that eldercaring coordination will reduce the level of conflict in these cases so that family members are able to focus more productively on the issues at hand and work with others in their support system to provide personal care, health treatment, legal advice, advance directives, guidance, and planning. An independent research team lead by Pamela Teaster, Ph.D., Center for Gerontology at Virginia Tech University, will be studying the process to enhance eldercaring coordination as it progresses.

The ACR Guidelines for Eldercaring Coordinators can be found at:
www.EldercaringCoordinationFL.org and <http://acreldersection.weebly.com/resources.html>

Eldercaring Coordination has been endorsed by the Association of Family and Conciliation Courts as well as the Association for Conflict Resolution. The ACR welcomes additional Pilot Project Sites.

California is the newest state to participate as a Pilot Project Site. For more information, please contact:

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Frequently Asked Questions

What is Eldercare Coordination?

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

What does an Eldercare Coordinator (EC) do?

An EC:

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

Who is an Eldercare Coordinator (EC)?

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

- At least a master's degree;
- At least three years of post-licensure or post-certification practice;
- A family mediation training program certified by the circuit, state or province;
- An elder mediation training program that meets the standards approved and adopted by the ACR; and
- An eldercare coordination training program that meets the criteria within the ACR Guidelines for Eldercare Coordination.

Why is all that training necessary?

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

Who pays for the work of the EC?

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

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

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

Who developed the Guidelines for Eldercaring Coordination?

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

Why is research important?

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

Why shouldn't these families just go to mediation?

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

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

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

How is eldercaring coordination initiated?

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

Then what happens?

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

For More Information Contact the Eldercaring Coordination Initiative Co-Chairs

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Requirements for Eldercare Coordinators (ECs)**

ECs, due to the nature of the role, must complete the following educational/practical requirements:

- **Licensure or Certification by state regulatory body**
 - *i.e., through state bar, teacher credentialing, Professional Fiduciaries Bureau, etc.*
- **At least a Master's degree**
 - *Waived for J.D.'s, M.D.'s, Ph.D.'s*
- **Completion of Family/Divorce Mediation Training***
 - *Covers basic dispute resolution skills (of civil mediation) plus role of family dynamics and relational issues, to understand conflict in elder cases involving siblings & blended families.*
- **Completion of Elder Mediation Training***
 - *Covers specific needs of elder and multi-party disputes; teaches a person-centered process for the elder who has rights, values, and wishes to be respected as potential capacity issues are raised. Addresses additional skills needed to work with multiple generations, and balance various concerns while still focusing on the elder's care and safety.*
- **Completion of Eldercare Coordination Training****
 - *Covers effects of high conflict, litigious, and vindictive behaviors on the elder as well as family members and other stakeholders. Addresses exploitation, neglect and abuse of elders, domestic violence, substance abuse, as well as cognition issues in the elderly.*
- **Practical experience working with families in conflict**
 - *At least three years' experience working in a profession dealing with high-conflict family dynamics.*

* Assumes completion of basic mediation skills training (at least 32 hours)

** Requires completion of family/divorce mediation training AND elder mediation training

Questions/Concerns about EC Requirements or Where to Receive Training?

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[West's Annotated California Codes](#)

[Probate Code \(Refs & Annos\)](#)

[Division 4. Guardianship, Conservatorship, and Other Protective Proceedings \(Refs & Annos\)](#)

[Part 3. Conservatorship \(Refs & Annos\)](#)

[Chapter 1. Establishment of Conservatorship](#)

[Article 1. Persons for Whom Conservator May be Appointed \(Refs & Annos\)](#)

West's Ann.Cal.Prob.Code § 1800.3

§ 1800.3. Conservatorship for adults and married minors

Effective: January 1, 2008

[Currentness](#)

(a) If the need therefor is established to the satisfaction of the court and the other requirements of this chapter are satisfied, the court may appoint:

(1) A conservator of the person or estate of an adult, or both.

(2) A conservator of the person of a minor who is married or whose marriage has been dissolved.

(b) No conservatorship of the person or of the estate shall be granted by the court unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee.

Credits

(Stats.1990, c. 79 (A.B.759), § 14, operative July 1, 1991. Amended by Stats.1997, c. 663 (S.B.628), § 1; Stats.2007, c. 553 (A.B.1727), § 6.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

1990 Enactment

Section 1800.3 continues Section 1800.3 of the repealed Probate Code without change. This section makes clear that a conservatorship may be established only for (1) adults and (2) minors who are married or whose marriage has

been dissolved. In case of a minor who is married or whose marriage has been dissolved, a conservator of the person may be appointed if the requirements of this chapter are satisfied. A guardian of the estate of the minor may be appointed where necessary or convenient. See [Sections 1514, 1515](#). In case of a minor whose marriage has been adjudged a nullity, guardianship and not conservatorship is the appropriate protective proceeding of the person. See [Section 1515](#). However, if a conservatorship is established for a married minor and the marriage is later adjudged a nullity, the conservatorship does not terminate. See [Section 1860](#) and the Comment thereto. For background on the provisions of this part, see the Comment to this part under the part heading. [20 Cal.L.Rev.Comm. Reports 1001 (1990)].

[Notes of Decisions \(3\)](#)

West's Ann. Cal. Prob. Code § 1800.3, CA PROBATE § 1800.3

Current with urgency legislation through Ch. 742 of 2018 Reg.Sess, and all propositions on 2018 ballot.

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West's Annotated California Codes

Welfare and Institutions Code (Refs & Annos)

Division 9. Public Social Services (Refs & Annos)

Part 3. Aid and Medical Assistance (Refs & Annos)

Chapter 11. Elder Abuse and Dependent Adult Civil Protection Act (Refs & Annos)

Article 1. Legislative Findings and Intent (Refs & Annos)

West's Ann.Cal.Welf. & Inst.Code § 15600

§ 15600. Elders and dependent adults subjected to abuse, neglect or abandonment; legislative declarations and intent

Currentness

- (a) The Legislature recognizes that elders and dependent adults may be subjected to abuse, neglect, or abandonment and that this state has a responsibility to protect these persons.
- (b) The Legislature further recognizes that a significant number of these persons are elderly. The Legislature desires to direct special attention to the needs and problems of elderly persons, recognizing that these persons constitute a significant and identifiable segment of the population and that they are more subject to risks of abuse, neglect, and abandonment.
- (c) The Legislature further recognizes that a significant number of these persons have developmental disabilities and that mental and verbal limitations often leave them vulnerable to abuse and incapable of asking for help and protection.
- (d) The Legislature recognizes that most elders and dependent adults who are at the greatest risk of abuse, neglect, or abandonment by their families or caretakers suffer physical impairments and other poor health that place them in a dependent and vulnerable position.
- (e) The Legislature further recognizes that factors which contribute to abuse, neglect, or abandonment of elders and dependent adults are economic instability of the family, resentment of caretaker responsibilities, stress on the caretaker, and abuse by the caretaker of drugs or alcohol.
- (f) The Legislature declares that this state shall foster and promote community services for the economic, social, and personal well-being of its citizens in order to protect those persons described in this section.
- (g) The Legislature further declares that uniform state guidelines, which specify when county adult protective service agencies are to investigate allegations of abuse of elders and dependent adults and the appropriate role of local law enforcement is necessary in order to ensure that a minimum level of protection is provided to elders and dependent adults in each county.
- (h) The Legislature further finds and declares that infirm elderly persons and dependent adults are a disadvantaged class, that cases of abuse of these persons are seldom prosecuted as criminal matters, and few civil cases are brought in connection with this abuse due to problems of proof, court delays, and the lack of incentives to prosecute these suits.

(i) Therefore, it is the intent of the Legislature in enacting this chapter to provide that adult protective services agencies, local long-term care ombudsman programs, and local law enforcement agencies shall receive referrals or complaints from public or private agencies, from any mandated reporter submitting reports pursuant to [Section 15630](#), or from any other source having reasonable cause to know that the welfare of an elder or dependent adult is endangered, and shall take any actions considered necessary to protect the elder or dependent adult and correct the situation and ensure the individual's safety.

(j) It is the further intent of the Legislature in adding Article 8.5 (commencing with [Section 15657](#)) to this chapter to enable interested persons to engage attorneys to take up the cause of abused elderly persons and dependent adults.

Credits

(Added by Stats.1982, c. 1184, p. 4223, § 3. Amended by Stats.1985, c. 1120, § 4; Stats.1985, c. 1164, § 1, eff. Sept. 28, 1985; Stats.1986, c. 769, § 3, eff. Sept. 15, 1986; [Stats.1991, c. 774 \(S.B.679\)](#), § 2; [Stats.1994, c. 594 \(S.B.1681\)](#), § 1.)

[Notes of Decisions \(48\)](#)

West's Ann. Cal. Welf. & Inst. Code § 15600, CA WEL & INST § 15600

Current with urgency legislation through Ch. 742 of 2018 Reg.Sess, and all propositions on 2018 ballot.

High-Conflict Indicator Checklist**IDENTIFYING CASES FOR ELDERCARE COORDINATION***Do you recognize any of these characteristics?*

OBJECTIVE CRITERIA	Yes or No
Mediation has reached an impasse or is unlikely to be effective	
Multiple motions to the court; high rates of litigation over non-legal issues	
Competing applications for appointment as guardian citing non-legal reasons why one applicant is more appropriate than another	
Cross allegations of family members; possible safety concerns	
Ongoing disputes about un-measurable or unsubstantiated items	
Some family members have attorneys and others do not (imbalance of power) or all parties self-represented	
History of domestic violence or abuse in the family	
Drug/alcohol abuse	
Number of collaterals/agencies involved	
"Grey" divorce or separation – may be first or after multiple marriages or relationships, especially if children are involved	
APS RELATED	
Multiple calls to APS regarding issues of family conflict regarding an elder	
Case completed with APS where concerns that family conflict may continue to impede welfare of elder	
SUBJECTIVE CRITERIA 1= LOW CONCERN 5 = HIGH CONCERN	Rate 1-5
Possible endangerment of elder or other parties	
Chronic interference with elder's care or decisions affecting elder's welfare	
Others' conflict may place elder in jeopardy	
Possessive or controlling behavior toward the elder	
Elder being denied access to family member(s) and/or significant others	
Parties being denied access to information	
Difficulty in others separating elder's needs and desires from their own; high degree of rigid thinking; win/lose mentality	
High emotionality expressed by parties in court; verbal abuse; loud quarreling	
Chronic disputes over access and support	
Coalitions/sibling splitting entrenched	
Money is used as bargaining tool or being withheld for care of the elder	
Suspicion – founded or unfounded – of financial mismanagement (by elder or by elder's authorized decision-maker)	
Parties are not working cooperatively with collaterals and resources for the elder	
Guardian or other authorized decision-maker repetitively being questioned and second guessed	

