



Newsletter: Elder-centered Solutions Conflict

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People

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Practices

Elder Law

Elder-centered Solutions for Family Conflict

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When an aging parent needs care and lacks the capacity to make decisions, family conflict may erupt among adult siblings. The challenge of making so many decisions (including health care, residential, caregiving, and financial) for an elder can create stressful situations, potentially causing conflicts to simmer under the surface before eventually boiling over. In these situations, families frequently turn to the court system for resolution, but complicated family dynamics usually can't be addressed in a courtroom. Litigation also may intensify conflict rather than resolve it. In addition, a contentious and time-consuming conservatorship proceeding drains resources, hinders the timely provision of effective care, and can often negatively impact the elder emotionally. Ideally, families should focus their attention on the elder, keeping the elder's rights, wishes, and well-being at the forefront.

So how can a family reduce conflict and remain focused on the elder's needs?
Collaboration.

When family members get together and collaborate to reach a joint decision, this often helps speed up the process of getting necessary treatment or services for the elder. Two useful ways to encourage collaboration are mediation and care coordination.

Mediation is a collaborative, rather than adversarial, process where parties voluntarily enter into a confidential discussion with the goal of resolving a conflict. A mediator is a neutral conflict resolution expert who facilitates the discussion and helps sort out contentious issues but doesn't hold the power to make a decision. Since the mediator and parties agree to keep anything said at the mediation confidential, the mediator cannot testify if the case proceeds to litigation. During a mediation, the mediator may meet with the parties together or separately and works to find common ground so that an agreement or solution can be reached. In family conflict, a mediator keeps the conversation civil and focused on the elder. After a solution is reached, it should be

memorialized in writing, and it will often be incorporated into a court order.

Mediation gives an elder's family members a venue to fully express their feelings and opinions, explore options, and work out their differences. Parties are often more satisfied with and committed to a mediated solution than a judicial determination because they had control over the process and input in the resolution. Using a cooperative process like mediation can preserve family relationships and improve communication, and it may be less expensive than going to court. Mediation has become standard practice in family law cases, which also define future family relationships and present emotional and financial issues similar to those in elder law cases.

Another form of collaboration is working with a care coordinator who is trained in advocating for and serving elders, as well as helping families resolve conflicts related to elder issues. This person may be a social worker or other professional with knowledge about financial considerations, caregiving, and health issues. A care coordinator can facilitate a family meeting where information can be exchanged, and options for appropriate management of the elder's affairs can be discussed. Working with a care coordinator who is focused on the well-being of the elder can reduce conflict by providing family members with detailed information and giving them an opportunity to express their concerns.

Our elder law team has decades of experience helping clients and their families work through conflict and determine the best solutions for their loved ones. We provide counsel, mediation, care coordination, and representation in court if needed. If you or someone you know has questions, please contact a member of our team.