

# Add a New “Must” Professional to Your Network

■ Professionals who serve seniors often see family disagreements that affect their ability to serve the senior’s best interests. Sometimes family frictions even affect the senior’s well-being or decisions. CSAs can help families resolve disputes by referring them to a professional elder mediator. **BY DEBBIE REINBERG**

The families of seniors frequently feud over issues related to the senior’s physical, mental, financial, or legal well-being. As professionals who work with seniors, many Certified Senior Advisors (CSAs) probably have memories about their most difficult—and sometimes also most interesting—client situations, in which explosive family dynamics interfered with the CSA’s ability to serve a senior client.

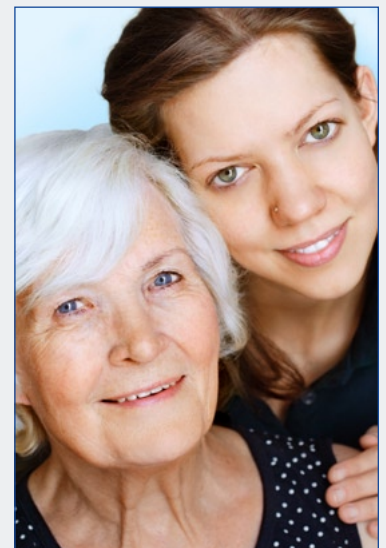
CSAs might encounter squabbles over topics ranging from decisions about whether a parent should drive to choices related to parents’ residency. Family members might disagree about whether a senior should stay at home or move into a retirement community. Perhaps one child wants to live with and take care of her dad, but the other siblings don’t think that’s the wisest choice. Or maybe three adult sisters live in three different cities, and each sees her locale as the best place to find a retirement home for her mom.

CSAs also sometimes face family disagreements around decision-making power. When a parent’s mental competency is faltering, who should take charge of medical and/or financial decision-making? If one family member decides he should be “in charge,” but he does not have the necessary legal designations, hostilities can arise that really create problems, especially if other family

members worry that he’s irresponsible or has ulterior motives.

Long-distance relationships can add intensity to family arguments. Local adult children tend to be saddled with the bulk of the responsibility. They may grapple with caregiver burnout, while out-of-town relatives fail to appreciate their efforts, remaining clueless about the actual requirements of caring for an older adult. Bickering is sometimes more heated in *blended families*, resulting in comments along the lines of “My mother is taking care of your father, and she’s exhausted. You ought to come and take care of your own father!”

The division of caregiving responsibilities is one major area that can cause rifts in a family. Typically, family members don’t share equally in these duties. Some adult children live out of town, some are preoccupied with their careers or their own families, and some simply feel no obligation to commit time to their parents’ care. Meanwhile, these people may have siblings who are still attached to their parents’ shirttails, for emotional or



financial reasons, or both. Francine Russo sums up very well the tensions that can develop:

As we are thrust into prolonged and intimate contact with our sisters and brothers after decades in separate homes and lives, all our family history crashes down on us as we each look mortality in the face, up close—our parents' and our own" (Russo 2010, p.5).

### How elder disputes can affect a CSA's business

Family conflicts involving older adults can have serious ramifications beyond the confines of the family group. Sometimes they impact the senior's neighbors, retirement community, home health-care provider, hospice, or other organizations. Everyone who works with seniors needs to be prepared to respond appropriately to difficult family situations. Consider these three examples of professional caregivers caught in the middle of heated family disputes:

First, suppose that Frances moves her mother to an assisted living community. She pays the monthly rent promptly, and she visits occasionally. She tells the staff that her sister, Doris, is not allowed to visit unless she is present. Mom adjusts reasonably well to her new setting, enjoying activities and making friends. After a month or so, though, she asks the staff why Doris hasn't come to visit. The staff hesitates to get involved, and they tell Mom they don't know. At that point, Mom stops participating in activities and spends increasing amounts of time sitting in her room crying. The family situation is negatively influencing Mom, a resident of a community, and the other residents are wondering why they don't see her much anymore. The assisted living staff is caught in the middle. They want to ensure Mom's well-being, and they're concerned that her situation might affect the morale of other residents, but Frances is a key decision-maker who is paying for Mom's care.

### » Guidelines That Facilitative Mediators Follow

- They keep in mind that one side of the story is just one side of the story. Conflicts involve at least two points of view—and often more.
- They make sure everyone understands that solutions usually require compromise, collaboration, or other accommodation from all parties to the dispute.
- Their main goal is to help the various parties communicate. Facilitative mediators make sure all participants have ample opportunity to present their perceptions. They also work to make sure that everyone actually listens to everyone else's point of view.
- Even when family members are upset, they usually have some foundation that ties them together, such as wanting the best possible care for a parent. Facilitative mediators look for the common ground and point it out. Focusing on what family members have in common can help them collaborate to find solutions they all can live with.

Second, consider the situation of a senior man who is living at home. He has in-home companions who prepare meals, grocery shop, provide light housekeeping, arrange medical visits, and accompany him to the doctor. He enjoys spending time with the caregivers who visit him. His local daughter, Jennifer, has medical power of attorney. She's happy with the arrangement; she hired the companion agency when Dad's care became too much for her. However, her out-of-town brother John has financial power of attorney, and when he visits he becomes angry that Dad isn't getting any exercise. John calls the companion agency and threatens that if Dad doesn't receive more stimulating care, he will find a different agency, or else he'll just stop paying for their services.

Now the companion agency is caught between Jennifer and John, and neither sibling seems to have asked their father what he wants.

Finally, consider the case of George, a relatively independent octogenarian who wants to provide financial help to his daughter, Candace. George also gives sizable annual gifts to Candace's two out-of-town brothers, Colton and Charlie. But George gives Candace, a struggling single mother of three teenagers, amounts that exceed the brothers' gifts almost fourfold. George tells his financial planner and Candace that he is also planning to fund the teenagers' college education, even though he has not offered any assistance to his other grandchildren. Then George starts showing signs of early dementia. Although George can still make his own decisions, Colton and Charlie start to consider how he will pay for care for the rest of his life. They meet with George's financial planner, demanding a forecast of his income and expenses so that they can make the right decisions for him. In the course of the conversation, the brothers find out that Candace is her father's financial power of attorney, and they decide that they should take a more formal look at Candace's financial situation, given her part-time job and lifestyle. The financial planner becomes very uncomfortable with the brothers' demands.

As service providers to older adults, the assisted living community, the companion agency, and the financial planner have been put in the middle of heated family disputes. If they have the professional skills and experience on staff, they may be able to bring all the parties together to listen to the senior's point of view on the situation. Note that it's not uncommon for adult children to fail to ask—or at least fail to obtain—the opinion of the parent whose life their decisions are affecting. Alternatively, there may be too much tension between the siblings for the staff of the assisted living community or companion agency, or the financial planner, to facilitate a civil and productive discussion.

## » When Should You Make a Referral to an Elder Mediator?

- **Your role as a professional service provider for your senior client impedes your ability to assist in the situation.**

For example, if you're a financial services professional, you may be privy to information that your client does not want to share with family members. Or if you're a medical professional (or you have access to medical information), you may not have a HIPAA release allowing you to talk to family members about a client's medical situation. In either of these situations, you must not participate in a family meeting to discuss confidential issues; the family needs a professional mediator.

If you are asked to be an advocate for a client in a mediation, you will still be required to honor the confidentiality of their information. In such a situation, your role would be to communicate (or help communicate) what is important to your client to the other parties. Alternatively, you may be asked to participate in elder mediation, not to advocate for a client but to provide your professional expertise. When families are ready to make decisions, they may lack understanding of their financial, medical, or other options. Sharing general information about a complicated topic could assist the family by providing information they need to make the right decisions.

- **The issues are complicated or require legal or other professional advice.** For example, mediators may ask attorneys to attend a meeting (or be available by phone) to clarify legal issues that they anticipate may arise. Neither a mediator (even a mediator who is also an attorney),

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## What is elder mediation?

Ending conflict among family members is obviously in everyone's interest, but a CSA's primary responsibility is with the senior client. Do not compromise your ability to serve your client's needs first and foremost. When disagreements are jeopardizing a senior client's well-being, and the professionals involved in the disagreements cannot or should not handle the situation themselves, the right decision may be to refer the family to an elder mediator. As a CSA, you likely already have a list of elder-care professionals in various fields to whom you refer clients with specific needs. An elder mediator is a new type of professional resource you should consider adding to your list.

Mediation involves an impartial third party, who acts as facilitator in the resolution of a dispute. Unlike the legal process, mediation leaves control of the situation with the people who are parties to the dispute, not with a judge. If a dispute is heading toward a legal resolution, mediation is often faster and much less expensive than a court proceeding. Another benefit of mediation is that the discussions are confidential.

## Which type of mediation is best for the situation?

Mediation takes several forms: evaluative, transformative, facilitative, or a hybrid of these approaches. Evaluative mediators are typically retired judges or attorneys. An evaluative mediator keeps the parties in separate rooms and shuttles back and forth, providing each party with his "evaluation" of the dispute. The evaluative mediator then makes recommendations to the parties; his advice is based on legal issues, rather than relationship issues.

In contrast, in transformative mediation, the parties to the dispute direct the process—in the same room, together—and the mediator follows their lead. Transformative mediation stems from each party's desire for

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nor any non-attorney CSA, is permitted to practice law in a mediation setting. A professional mediator helps ensure that the role of attorneys, or other professional specialists, is appropriate and is clear to mediation participants.

- **Initial efforts to facilitate discussions indicate that the individuals involved are entrenched in their positions**, and all seem unwilling to budge.
- **Resolving the issues will require time.** Family disputes that involve multiple parties or several heated issues may prove too difficult for the family members to resolve swiftly. Quick resolution is also unlikely if the parties are unwilling to work together toward solutions. And if any of the parties suffers from a significant mental health or substance abuse issue, just assembling the group can be a daunting challenge that requires a professional elder mediator.
- **An older adult may be at risk of abuse or neglect.** As a CSA, you are responsible for serving your client's interests. If you're concerned about an immediate threat to the senior's health or welfare—for example, if you're concerned about the stability of the senior's caregiver—contact the appropriate authorities at once. If you don't feel the individual faces an immediate threat, but you're concerned about her well-being nonetheless, elder mediation might be the right path to take.

empowerment. The idea is that the mediation process will transform the participants. Some believe that the transformative model doesn't work well by itself but serves as a desired

endpoint for the other forms of mediation.

The third form of mediation, facilitative mediation, is most successful when the parties have a vested interest in maintaining a relationship. It works well in divorces, when the divorcing spouses must continue to have contact because they have children together. It can also be successful in elder-care settings, where family members stand to benefit from a more harmonious rapport, since they will continue to see one another at family lifecycle events, for holiday celebrations, and in other settings.

Facilitative and transformative mediators are typically either attorneys or mental health

professionals.

These credentials are not required, though. Some mediators are simply people who are good at facilitating discussions.

Although most states have no certification process for mediators, most mediators

complete at least a basic, 40-hour course. After completing the course, most mediators adopt a dispute-resolution process and “style.”

### How facilitative mediation works

The parties in a facilitative mediation typically agree to sit around a table. They may include legal representation, if desired. They agree on certain ground rules before they begin, such as no interrupting, no rude remarks, and no inappropriate gestures or facial expressions.

All parties have a chance to talk, with mediators facilitating the discussion and ensuring that everyone understands what

## » Resources for Finding an Elder Mediator

- Association for Conflict Resolution Member Directory ([www.acrnet.org](http://www.acrnet.org))
- National Eldercare Mediator Network ([www.eldercaremediators.com](http://www.eldercaremediators.com))
- Mediate.com ([www.mediate.com](http://www.mediate.com))
- Enter “elder mediation” and your city in an Internet search engine
- Ask other professionals for referrals

everyone else says. There is no rule specifying how many mediators should participate in resolving a given dispute, but it’s often a good idea to use two mediators who have different styles. That helps ensure that disagreeing participants, with different personalities, have different mediators to gravitate toward. Facilitative mediators work to identify common interests among the parties, then help them come up with solutions that they all can agree to. The mediators may make suggestions and provide helpful information to the group, but the parties to the dispute are responsible for developing and accepting solutions.

Facilitative mediation works because the process is guided by neutral, trained professionals. First, mediators typically interview all involved parties individually and develop a plan of action. Then, when the group meets, the mediators focus the discussion on each participant’s interests, rather than the individual’s position in the current dispute. Facilitative mediators are process experts who manage conversations in such a way that they help people feel acknowledged and empowered—which, in turn, builds trust. Their skills can convince warring parties to listen to one another, which can move contentious family discussions beyond a state of ineffective

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communication, or no communication at all. (See *Guidelines That Facilitative Mediators Follow* on page 53.)

### How to suggest mediation to a client

Squabbling families often resist addressing the issues at the root of their conflict. They may think they're better off maintaining the equilibrium that has worked (or not worked) for decades, rather than openly arguing. Yet when a senior is failing, others in the family need to rethink how they communicate.

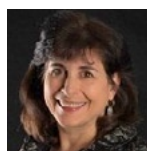
Families are made up of individuals who have different levels of education and wealth, different morals and values, different styles of dealing with conflicts, and varying degrees of denial. It can be difficult to convince such different people to sit down together. People often resist asking their family members to participate in the conflict resolution process. They may fear that others will refuse to participate. They may worry about how others will react to the suggestion of mediation. They may be concerned about offending their family members, or being offended. They may be uncomfortable confronting childhood family dynamics. Or they may just assume that their family's issues can never be resolved.

When you have a senior client who is engaged in a family dispute, and referring the client and his family to an elder mediator seems appropriate, you can start the conversation by asking your client, "What do you think will happen if you don't do anything?" That is a powerful question, and it may motivate your client to act.

If a client continues to resist dealing with family problems, you need to determine why before you can address the reasons behind this resistance. Acknowledge your client's fears about how their family members might respond to mediation. Then explain how an impartial third party can make the discussion safer. Assure them that a mediator will help facilitate a conversation

that does not involve verbal assaults.

When you have a client who is negatively impacted by family conflicts, elder mediation may be well worth the effort. Remember that change brings conflict—and that conflict brings the opportunity for change. ■



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implementing hospital-based geriatric outpatient primary care programs. She established a geriatric care management company in 1997 and continues to advocate for older adult clients when not acting as an impartial mediator. You can reach her at [debbie@elderresolutions.com](mailto:debbie@elderresolutions.com).

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