



Family Decision-Making with the Elderly

The good news is, many of us are living longer and healthier lives thanks to the advances of medical science. In addition, our own efforts to do all the “right” things are resulting in opportunities for interesting and productive retirement years. For some, the decision making about future medical and financial issues is being done well ahead of a crisis point, while others may wait until they are under immediate threat of either health or economic problems. Families are now called upon to make decisions with and for their aging parents or relatives, which have become increasingly complicated by geographic, economic and emotional factors.

Mediation can be effective in several areas:

- ◆ Adult Guardianship Issues
- ◆ Divorce
- ◆ Grandparent Visitation and Custody
- ◆ Nursing Care
- ◆ Health Care
- ◆ Living Situations
- ◆ Financial Issues

While mediators are required by standards of ethics to assess appropriateness of mediation in each case, criteria for making a determination about a party’s capacity to mediate have not been generally established in the mediation field. Capacity is a complex concept. One may be capable in one area and not in others. Emotional responses during a mediation may interfere at any point with a party’s capacity for decision-making. Some criteria have been suggested that parties must demonstrate, as minimal requirements to mediate¹:

1. See how specific issues are related and connected to each other, especially in a conflict situation.
2. Focus on one issue at a time.
3. Understand cause and effect, match events and their consequences, and tie behavior to its effects on others.
4. Take responsibility for one’s own actions.
5. Conceive of, use, and respond to formal, businesslike, common measures of time in the context of scheduling and deadlines.
6. Comprehend the nature of a behavioral commitment.
7. Identify desired outcomes.
8. Understand the mediator’s role and distinguish it from that of a judge or a police officer.

Mediation is a way to bring all concerned parties together to make decisions collaboratively, and to assign tasks. Even where there are difficult family issues among siblings or others involved, mediation creates a space for dialogue and gathering of information that can help in making decisions with elderly parents or family members. The dignity and autonomy of the elder person is preserved as much as possible by their inclusion in the mediation process.

¹ Patrick G. Coy and Timothy Hedeon, *Disabilities and Mediation Readiness in Court-Referred Cases: Developing Screening Criteria and Service Networks*, 16 MED. Q., No. 2, 121, (Winter 1998).

