

## Making it Work with Elder Mediation

*Dad wants his annual Florida holiday; Mom won't go – but won't let him go, either!*

*Why did you marry my dad if you're just going to put him in a home?*

*When Dad married your mom he agreed to pay for her care – but that's not what it says in his Will.*

*Your dad's left the retirement home and is holed up in the local bar!*

*Mom won't allow any home help – but she calls me at work 20 times a day!*

Incredible? Yes!

Improbable? Not really!

Impossible? Maybe not...

Family shenanigans are the stuff of sitcoms – but they're not so funny when you're coping with an aging parent. Dilemmas such as these are tricky – they aren't matters for the police, or for a lawyer – or even for Dear Abby. How can you understand your parent's behaviour – get them to see reason – to act logically and responsibly, and to commit to making a positive change?

There's a technique borrowed from the legal community that's finding a new relevance for families and their aging parents – it's called *eldercare mediation*.

Mediation is a non-binding process in which an impartial mediator facilitates communication, identification of common interests, not just legal rights, and works to identify options and agree on realistic courses of action, as well as alternatives if no agreement is reached, that will maintain a relationship between the parties.

Mediation is **not** a way to have mediator deliver a message, but to collectively develop – and therefore take ownership of – a mutually agreeable solution. A mediator is neither judge nor jury. The agreed-upon solution is not legally enforceable, rather, it is a social contract, documented and signed as part of the mediation process. The alchemy is that the *participants have the answer*; the mediator simply (and skillfully) helps bring it about.

### Mediation in Action

Mediation is effective when both parties take a fixed position; are stuck for a solution; are angry, frustrated, embarrassed, and wanting to move ahead. It provides a 'safe' environment to thoroughly examine an often emotional and fraught situation. Each party has the opportunity to state their story, feelings and position clearly and without interruption so that both parties can be heard and acknowledged – and that in itself can be very powerful.

Let's see how mediation worked in our examples:

- Dad loves his annual six months in Florida, but on their last few trips Mom has stayed in bed most of the day and can't even be coaxed down to the pool. All the same, she's not about to let Dad go on his own. Both parents and two adult sons attended the mediation. Dad became emotional at explaining how much he needed a break and looked forward to the sunny south; Mom stated her resentment at being abandoned and her fear of being alone. Options were raised to find live-in care for Mom starting before Dad left; a plan for Dad to be away from November-March instead

October-April; Mom to stay home with live-in care, come down in December on an open ticket, and make an effort to be more sociable. If the visit does not go well, one of the sons will take her back home, still with live-in care, while Dad stays on. During the session the parents were able to look past their recent difficulties and focus on shared happy times in Florida, their friends there, Dad's right to have time there without guilt, the need for the sons to give Mom more attention while dad's away, and the reassurance that Mom would never be abandoned.

- The Wilmotts arrived at their session seething with emotion. After only three years of marriage, step-mother and step-daughter were still wary of each other. During the listening phase the devastating impact of the step-mom's care-giving – especially after her previous husband's illness and death – became fully clear to the step-daughter; her own fears about losing her dad, plus guilt and grief at her mom's death five years ago also surfaced. The step-daughter agreed to investigate the respite options her step-mom had researched and make a decision within two weeks for a four-week respite placement for her dad, wherein she would take on visiting and care management while the step-mom visited her own daughter and new grandchild out of town. The step-daughter apologized for the hurtful remarks and thanked step-mom for the excellent care she'd been providing to her dad.
- The Goldberg brothers acknowledged their late father's intentions to protect his disabled wife of two years, but were very reluctant to designate any more than a very minimal sum. Their court-ordered mediation hired an independent consultant to research and cost out three care scenarios for the widow, all of which were higher than their original offer. Faced with this objective evidence, they agreed to fund the least costly alternative from their father's estate, and the widow's own children made up difference to the medium-cost option. Both parties remained bitter at the perceived injustice but the brothers were at least able to move toward settling the estate and receiving their inheritance.

### **Testing Mediation's Effectiveness**

Even the most skillful mediation can be put to the test when:

- One of the parties is not interested in changing. Bob Moore's dad desired above all else to live independently, to continue to drink and to refuse medication despite all advice and efforts. Since Mr. Moore is mentally competent, he has the right to live as he wishes – however the mediation process did help the son accept his dad's decision and not feel guilty about ceasing his fruitless efforts to help.
- The parties are unable to take ownership of their desires; an 80-year-old mother whose 55-year old, well-educated son would not move out of her basement wanted to use the session to deliver him an eviction order, but could not bring herself to state it as an option, even when mediator raised it during brainstorming.
- Mental incompetency; while it is very difficult to 'enforce' care, even with a Power of Attorney, one of the hallmarks of mental incapacity is the inability to understand implications of a decision. The daughter whose mother refused care but constantly phoned her, hired a live-in caregiver experienced in dementia whom she introduced as a friend; stayed home for a week to ease the transition; then casually treated the live-in as a permanent fixture. Letting Mom stay home alone all day was simply not a responsible option but was best over-ridden using a light touch.

## **Best Advice**

Be sure the mediator you choose has a detailed knowledge of the local eldercare industry to help you craft an informed and realistic decision. There is no point reaching a solution that is not enforceable, affordable or achievable given the costs, waiting lists and complications of eldercare in Canada. Be aware that the typical session takes 2-3 hours at anywhere from \$100-\$300/hour; the parties sign an agreement and split the cost.

Like so many things in life, mediation is more effective the more effort you put in to making it work. But anything is better than being stuck in frustration and anger. After all, these are the only parents you've got – so isn't it worth a try?

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