

ELDER MEDIATION ANNOTATED RESOURCE LIBRARY



Authored by
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of
The Center for Social Gerontology, Inc.
with Assistance from
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Ann Arbor, Michigan

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Ann Arbor, Michigan

THE CENTER FOR SOCIAL GERONTOLOGY (TCSG)
presents the

**ELDER MEDIATION ANNOTATED
RESOURCE LIBRARY**

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I. INTRODUCTION

The Center for Social Gerontology is pleased to provide this annotated bibliography on elder mediation. The purpose of the bibliography is to provide a comprehensive listing and brief description of the universe of existing materials –books/manuals/reports, articles, and video/on-line information – on the development, provision, and evaluation of elder mediation. The bibliography includes all items we have been able to identify as being directly related and that hit the conjuncture of mediation and aging/disability/health care. It does not include items not directly related to **elder** mediation, e.g. items on guardianship, capacity, long-term care, **or to the field of mediation generally.**

The idea for the bibliography was conceived as a result of TCSG convening, in February 2006, a mini-summit of expert participants from the mediation and aging networks to address important challenges confronting the emerging field of guardianship/caregiver/ elder mediation. Following the mini summit, participants wished to continue their work together by forming a National Elder Mediation Network (NEMN), and breaking into working committees organized around the major themes of the mini-summit: (1) Essential Elements of a Quality Program/Service; (2) Ethics and Standards; (3) Training and Education; and (4) Marketing and Research.

The Marketing and Research Committee, chaired by Robert Rhudy and Erica Wood, determined that it would be extremely helpful to the mediation and elder advocacy communities to identify and compile a comprehensive annotated bibliography on existing resources on elder mediation. In response, Brooke McCreary of The Center for Social Gerontology, with support and participation of the Committee Co-chairs and Members, took the lead in identifying and collecting existing resources, organizing them according to substantive and process areas; suggesting which should be included, and then reviewing and drafting brief descriptions of each.

There are a number of people who made substantial and important contributions to this effort and we extend our sincere thanks to them. They include:

Marketing and Research Committee Co-Chairs –

Robert J. Rhudy, Consulting Attorney, The Center for Social Gerontology and President, Senior Mediation and Decision-Making, Inc.

Erica Wood, Assistant Director, American Bar Association Commission on Law & Aging

Marketing and Research Committee Members:

Penelope A. Hommel, Co-Director, The Center for Social Gerontology

James A. Bergman, Co-Director, The Center for Social Gerontology

Neal Rodar, Founding Member of the Northstar Group and Mediator in Residence for Woodbury College

Additional Assistance

Gerhild Bjornson, Ph.D., M.D.- Conflict Resolution in Healthcare

Caveat: Please note that the inclusion of any item in this bibliography *does not mean that The Center for Social Gerontology or anyone involved in its compilation is recommending or endorsing the content of the item.* As noted above, it **seeks to** include the universe of items we identified as being directly related to elder mediation.

With this caveat, we present this annotated bibliography. To facilitate its use, each item is followed by one or more symbols to indicate the substantive and/or process areas addressed. These include:

SUBSTANTIVE AREAS

- ♥ Guardianship and caregiver mediation
- 🏠 Healthcare, Medicare and bioethics mediation
- ♿ ADA/disability mediation
- 👂 Mediation of consumer disputes common to elderly
- 💰 Probate mediation; elder financial planning issues
- 🕊 Long term care mediation
- 🏠 Elder housing mediation
- 👨👩👦 Family mediation - grandparent issues, family dynamics, divorce, lifestyle choices
- 🚗 Driving, living arrangements, personal and household care, and management,

PROCESS AREAS

- 🧠 Capacity to mediate
- ⚙ Policy / standards / quality assurance for elder mediation programs
- 📖 Training of elders to mediate peer issues
- 📞 Referral protocols (as between senior mediation programs and legal services/Older Americans Act Title III)
- 🛠 Training curricula on senior mediation; examples of presentations
- 🤝 Use of problem-solving approach by staff, seniors, others – a “meditative approach”
- 🔊 Outreach/marketing/needs assessment

TCSG encourages interested persons to submit relevant materials regarding elder mediation to their office for consideration to be included in the bibliography at the discretion of an elder mediation editorial advisory committee.

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II. ARTICLES

A. ARTICLES IN JOURNALS / NEWSLETTERS / PERIODICALS

“Adult Guardianship Mediation Project.” Dispute Resolution News 6.1. Feb. 1996: 3. ♥

This piece is a very short article depicting the Adult Guardianship Mediation Project of The Center for Social Gerontology (TCSG) and specifically one of the four national pilot sites involved in the project, the New Mexico Center for Dispute Resolution (NMCDR). The project is explained and future goals and objectives of the NMCDR in relation to the project are highlighted as well.

Allen, Tracy L. “Mama Always Loved You Best: An Alternative to the Family Feud.” Michigan Probate and Estate Planning Journal 17.3. Spring 1998: 15-17. 💰 👥

This is a feature that describes family conflicts that can arise in today’s society, especially concerning end-of-life decision-making and decisions surrounding legacy. Alternative Dispute Resolution is offered as an option to what can become nasty litigation, and mediation is highlighted as an extremely promising method of ADR. The mediation process is assessed and presented, and the numerous benefits of mediation are reported. A concluding note explains the difference between voluntary mediation and court-ordered mediation.

Barrocas, Janice, and Diane Persson. “Mediating Disputes in Long-Term Care.” BIFOCAL Summer 2005: 36-37. 29 Oct. 2007

<<http://www.abanet.org/aging/publications/bifocal/summer05.pdf>>. 🕊️ 🔊 🗣️

The article examines the need for mediation over many long-term care situations. It continues to discuss the formation of the University of Texas at Houston’s Harris County Long-Term Care Mediation Pilot and the pilot’s central vision of overcoming barriers to mediation. The article reviews outreach methods by the program including referral, education of staff and community, and trainings. The article examines when it might be appropriate to initiate a mediation session, the importance of utilizing a certified ombudsman in long-term care mediation, and tailoring the process to the individual needs of the stakeholders. Also discusses “Decision-Specific Capacity.”

Beane, Leona, "Incorporating Mediation Within the Guardian's Powers," *NYSBA Elder Law Attorney*, Vol. 18, No. 4, Fall 2008. ♥

Co-guardians do not always see eye to eye. The author suggests the use of mediation to assist in resolving disputes and controversies between co-guardians. The article includes sample mediation provisions that can be incorporated within a guardian's powers -- and can also be used in conflicts of caregivers.

Beane, Leona. "Should Mediation Be Available as an Option to Reduce Litigation in Contested Guardianship Cases?" *NYS Bar Journal*. June 2002: 27-31. 12 Sept. 2007. ♥

This item discusses in depth how New York guardianship law changed in 1993 and why guardianship litigation can get so out of hand so quickly. The article presents mediation as one solution to the growing litigation problem. It gives in-depth information about the Michigan guardianship law and how mediation is involved with the "guardian ad litem" position. The article continues to analyze whether mediation should be made available under New York law, too.

Beane, Leona, "Utilizing Mediation to Resolve Estate Litigation," *NYSBA Trusts and Estates Law Newsletter*, Vol. 41, No. 3 (Fall 2008). ♥ 💰 🏠

Trusts and estates attorneys regularly encounter disputes among distributees, beneficiaries, relatives and business associates of the deceased. This article highlights the use of arbitration and mediation as an alternative to extensive, costly and time consuming litigation. Mediation can assist in mending fences in estate-connected disputes and setting a framework for resolving future conflicts. Mediation can assist in contested probate or administration proceedings, contested estate construction proceedings, and contested accounting proceedings. The author suggests that "attorneys should include mediation clauses in their wills and trust documents, providing that in case of a dispute the parties agree to utilize mediation first before commencing litigation in court."

Bird, Katharine. "Mediation: Its Time Has Come." Elder Law Forum 4.3. May/June 1992: 1+.



This article presents mediation as a beneficial method of dispute resolution that encourages people to "communicate with each other" and uncover underlying issues of conflict. The article explains the process that the Pittsburgh Center takes when initiating a mediation session. Benefits of mediation, cases suitable for mediation, and pitfalls along the way are also presented. The dispute described at the beginning of the article involves two elderly men that are neighbors.

Bitonte, David A., and Jennifer Bitterman. "New Mediation Program Helps Resolve Complaints." Quality Counts [Ohio KePRO] 2.5. Dec. 2003: 1-2. 12 Nov. 2007

<<http://www.ohiokepro.com/newsletters/qc/qcdec03.pdf>>.

This article presents mediation as a "viable option to resolution of Medicare beneficiary health care complaints." The article describes what mediation is and what cases may be appropriate for mediation in this context. It claims that mediation can help reduce malpractice claims and that it is strictly confidential. The article also examines the Ombudsman Program and compares it to the Mediation Program.

Bloche, M. Gregg. "Managing Conflict at the End of Life." The New England Journal of Medicine 352:2371-2373.23. June 2005: 2371-2373. 12 Nov. 2007

<<http://content.nejm.org/cgi/content/full/352/23/2371>>.

This is a New England Journal of Medicine piece that begins by discussing the media spectacle that surrounded Terry Schiavo's death in 2005. The article examines the conflict faced by the family and others during the end-of-life decision-making process. It explains that the law is limited in the assistance it can offer during contentious decision-making, but explains what is in place. The article offers several suggestions for avoiding the difficult conflict that can occur. Mediation is listed as an option for families to explore.

Burns, Ann M., and Lauren Barritt Lisi. "Mediation in Guardianship Cases: A Promising Alliance." Clearinghouse Review 26. Oct. 1992: 644-645. ♥

The relationship between mediation and the benefit of its use in guardianship cases is reviewed, and The Center for Social Gerontology (TCSG)'s 1991 Guardianship Mediation Project is discussed. Reasons leading to the formation of the project are mentioned, specifically the negative aspects of guardianship, as well as the goals of the project. The appropriateness of mediation in different kinds of cases is analyzed. Outcomes of the TCSG Guardianship Mediation Project are also presented as well as examples of mediation agreements and additional guardianship mediation resources.

Butterwick, Susan, and Penelope A. Hommel. "Mediation: A Tool for Resolution of Adult Guardianship Cases." NAELA Quarterly 14.4. Fall 2001: 4-8. ♥

This NAELA Quarterly article compares an actual guardianship situation witnessed by The Center for Social Gerontology, Inc. with and without the use of mediation. The article gives an in-depth explanation about what adult guardianship mediation entails, including the benefits and costs of elder mediation. The article also discusses what types of cases are appropriate for mediation and what the mediator's role should be. Advice is given for people wishing to arrange an adult guardianship mediation session.

Carbine, Michael E. "Adapting Dispute Resolution Techniques to the Health Care Field." NIDR FORUM. Summer/Fall 1991:15-17. 📖

This feature addresses specific concerns about adapting alternative dispute resolution (ADR) techniques into the health care field. It explains that there has been a push to include ADR in health care for some time, but there are still problems with the system such as expense, efficiency, and equitability. The article gives an explanation as to why ADR is an important option for health care facilities, but also makes it clear that there are different kinds of ADR methods and some are more appropriate for this setting than others.

Chapman, Patrick. "CMS v Nursing Home." Interagency Alternative Dispute Resolution Civil Enforcement and Regulatory Section Newsletter. Oct. 2003: 1-2. 8 Feb. 2008

<http://www.adr.gov/newsletter/volume1/issue1.pdf>.  

This piece describes a disagreement between the Centers for Medicare and Medicaid Services (CMS) and a nursing home. CMS was dissatisfied with several factors of a nursing home's service and wanted to impose a civil money penalty which prompted the nursing home to request a hearing. Through mediation, CMS and the nursing home were able to come to a satisfactory solution for both parties.

Cohen, Judith. "The ADA Mediation Guidelines: A Community Collaboration Moves the Field Forward." Cardozo Journal of Conflict Resolution. 12 Mar. 2002. Yeshiva University. 12 July 2007

http://www.cardozo.yu.edu/cojcr/final_site/articles_notes/vol2_2_an/cohen.htm.  

This item gives the history of the Americans with Disabilities Act (ADA) Mediation Guidelines as well as detailing the early stages of their implementation. It describes the goals of the original Work Group throughout the 1990's and discusses the concerns the group encountered while developing the ADA Mediation Guidelines. The article discusses the impact of the guidelines on the mediation field as well as illustrating the continued collaboration amongst mediation practitioners.

Cox, Enid O., and Ruth J. Parsons. "Senior-to-Senior Mediation Service Project." The Gerontologist 32.3. 1992: 420-422.    

An article written to describe the potential of seniors to be successful volunteer mediators, especially when it comes to senior issues. Issues especially suited to older mediators are consumer disputes, neighborhood disputes, age discrimination disputes, public benefits disputes, disputes in estate and long-term planning, etc. The article discusses a senior mediation program in Denver by the Denver Institute of Gerontology, and describes the program implementation, evaluation, and findings.

Crawford, Susan H., Lewis Dabney, Judith M. Filner, and Peter R. Maida. "From Determining Capacity to Facilitating Competencies: A New Mediation Framework." Conflict Resolution Quarterly 20.2 (2003): 385-398. 🗣️

While this article acknowledges that some mediation field participants feel "mediators should determine whether or not a participant has the capacity to mediate," it asserts that "determining capacity limits parties' access to the mediation process, abridges civil rights, reduces mediator effectiveness, and erodes fundamental principles of mediation. It proposed a framework that centers not on legal or clinical practice, but on theory and practice of mediation as a distinct field" and proposes a new mediation framework of "facilitating competencies."

DeAngelo, LeAnna M. "Mediation in Health Care Settings: Some Theoretical and Practical Concepts." Journal of Clinical Psychology in Medical Settings 7.2. June 2000: 133-139.



This article discusses selected topics that may prove to be "relevant theoretical issues and practical procedures for conducting mediation disputes in health care settings." The article explores mediation issues in general and then focuses on applications in health and long-term care decision-making. The article also explored a psychologist's role in the mediation process.

"Family Caregiver Mediation Available." DAS Georgia News 4. Apr. 2004: 2. 8 Nov. 2007 <http://www.aging.dhr.georgia.gov/DHR-DAS/DHR-DAS_Newsletter/DASNewsletter_Apr2004.pdf>. 🗣️

The April 2004 version of the DAS Georgia News includes a very short description of the Family Caregiver Mediation / Shared Decision Making Program from 2004 of the Georgia Department of Aging Services. A brief description of the program is given as well as who is eligible for the free mediation service. Contact information is also presented.

Fiester, Autumn. "The Failure of the Consult Module: Why 'Mediation' Should Replace 'Consultation'." The American Journal of Bioethics 7.2.Feb. 2007: 31-32. 14 Dec. 2007 <http://repository.upenn.edu/bioethics_papers/55/>. 🗣️ 🗋️

A piece written for the University of Pennsylvania School of Medicine that examines the differences between "mediation" and "consultation," and explains why mediation should replace the consult module when it comes to ethics consultations in US hospitals.

Furlong, Erin B. "Legal Trends in End-of-Life Health Care Decision-Making." BIFOCAL 27.2. Dec. 2005: 21-27. 29 Oct. 2007
<<http://www.abanet.org/aging/publications/bifocal/05/dec.pdf>>. 🖨️

This feature examines the statutory trends in end-of-life decision-making from 2001-2005. It covers what the author perceives to be the four dominant areas of legislative activity in this area during this time frame including simplification and consolidation of advance directive laws, expansion of default surrogate provisions, more social prompts and tools for advance planning, and translation of patient care goals or wishes into treatment plans.

Gage, David, and Dawn Martin. "The Benefits of Mediated Family Estate-Planning Retreats." ACResolution 4.4. Summer 2005: 18-21. 💰 🧑🏻🧑🏻🧑🏻

The article explains the situations in end-of-life planning that give rise to a need for mediation including confidence by parents and conflict between grown children. The article advocates for collaborative estate planning while explaining challenges to it and methods for overcoming the obstacles to collaborative estate planning. It also explains the concepts of "estate planning retreats" and "accidental partnerships."

Gary, Susan. "Mediation in Probate." Elder Law Section Newsletter 7.2. Spring 2004: 4-6. 💰

This piece describes probate as one area of law that is especially conducive to mediation. Through the use of the 1985 "Larson case" the article illustrates how probate mediation can be a beneficial option for families. It discusses the benefits of mediation in probate including confidentiality, emotional benefits, maintaining ongoing relationships, finding unique situations, and financial savings as well as discussing the potential problems in the probate context. Article gives guidelines for mediation.

Gary, Susan N. "News From the Chair, Susan Gary- Plan Ahead: Mediation and the Elderly at the Annual Meeting." AALS Section on Aging and the Law Newsletter. Spring 2006: 1-2. 8 Feb. 2008
<<http://www.aals.org/documents/sections/aging/aalsagingandlawnewsletter.pdf>>. ❤️ 🤝

In a letter from the chair to AALS Section on Aging and Law members in the quarterly newsletter, the 2007 Annual Meeting of the organization was discussed in which "Mediation and the Elderly" was scheduled to be the main meeting topic. Elder mediation experts scheduled to present at the meeting were identified, and conflict-causing topics for older persons were also briefly discussed to give background for the Annual Meeting.

Gentry, Deborah. "Advanced Medical Directives and Family Conflict: A Potential Opportunity for Mediator Intervention." Mediation Quarterly 13.2. Winter 1995: 115-124. 🖨️

The piece explores legislation enacted in recent years about patient self-determination due to activism in the area. Recent implementation trends of this legislation are examined, especially that which is of interest to family mediators. The article offers advice for reaching out to "untapped clientele who are distraught over family conflict generated by one or more members having formulated advanced medical directives."

Gibson, Joan McIver, and Mary Beth West. "Hospital Ethics Committees: Mediation and Case Review." NIDR FORUM. Summer/Fall 1991: 22-23. 🖨️

This is an NIDR FORUM article that describes the increase of the utilization of ethics committees and other bioethics forums in hospitals as well as the variations in methods across these committees and forums. It describes a study by the Institute of Public Law of the University of New Mexico to study these committees, the results being that most ethics committees follow a fairly simple mediation intake, consultation, and follow-up pattern. The article also offers recommendations for medical ethics committees based on the results of the study.

Goodman, Oscar, and Nancy Hanawi. "Care and Conflict in Nursing Homes." NIDR FORUM. Summer/Fall 1991: 26-30. 🖨️ 🏠 🚗

This item proposes that dispute resolution "cannot only solve... conflicts, but in so doing, it can improve the quality of life and the quality of care." The article argues three main points including that mediation must be a universal option with a broad approach, that mediators need to be trained in the differences in communication and understanding that can occur in people of different "age, gender, race, ethnicity, and mental and physical capacity," and that there must be full commitment by all parties to the mediation process if the process is to be successful.

Hanson, Laurie. "Recruiting Retired Lawyers for Senior Mediations." BIFOCAL 23.2. Winter 2001: 5-6. 8 Feb. 2008 <<http://www.abanet.org/aging/publications/bifocal/winter02.pdf>>.



This article discusses the Legal Aid Society of Minneapolis's Active Senior Attorney Project and the difficulty the Project had finding and recruiting lawyers for senior mediation. The article explains the conditions that led to the shortage as well as what steps were taken to find and hire more lawyers. The short article explains the methods used for recruitment as well as the benefits to the program based on the recruitment of more mediators.

Hartman, Susan D. "Adult Guardianship Mediation." Best Practice Notes. 7.3 & 4. Sept. 1996: 6-9. 29 Oct. 2007 <<http://www.tcsg.org/bpnotes/sept96/adult.htm>>. ♥

This excerpt from TCSG's Best Practice Notes focuses specifically on guardianship mediation. It begins by analyzing the guardianship process and illustrating the consequences it can have for older persons and their families. The article describes mediation as a helpful method of dealing with issues that can lead to adult guardianship. It discusses under what circumstances mediation may be appropriate as well as the availability and use of mediation. Article concludes with a description of the 1997 TCSG Caregiver Mediation Study.

Hartman, Susan D. "Mediation in Adult Guardianship Cases." NIDR News 2.2. Mar./Apr. 1995: 8. ♥

This is a short piece that explains the imposition of guardianship that "results in a great loss of liberty for the elderly or disabled person subjected to guardianship." The Center for Social Gerontology's replication of its pioneering Adult Guardianship Mediation Project is discussed including logistics, process, the development of guidelines, and the publication of TCSG's Adult Guardianship Mediation Manual.

Hartman, Susan D., and Saily Barinaga-Burch. "Mediation Can Provide a Good Option in Adult Guardianship Cases." SPIDR News 20.1. Winter 1996: 1+. ♥ 🗣️

Guardianship of older adults is examined closely in this article, and the inappropriate use of guardianship in many cases is presented. Mediation is examined as a potential beneficial alternative to guardianship and ways to set up a guardianship mediation are indicated. The appropriateness of mediation is also discussed including possible issues for stakeholders involved in the guardianship mediation. Representation of the respondent is an important aspect to this piece, and capacity and confidentiality issues are explored, too.

Henderson, Tammy L., and Patricia B. Moran. "Grandparent Visitation Rights: Testing the Parameters of Parental Rights." Journal of Family Issues 22.5. July 2001: 619-38. 8 Feb. 2008
<[http://ches.okstate.edu/gi/documents/Grandparent Visitation Rights Testing Parameters Parental Rts.pdf](http://ches.okstate.edu/gi/documents/Grandparent_Visitation_Rights_Testing_Parameters_Parental_Rts.pdf)>. 👤

This is a lengthy article discussing the status of grandparent visitation rights through a study conducted by the authors. The article presents the visitation issue in a historical context and then describes the study in which the authors examined legal grandparent visitation cases from all over the United States. The article reflects the courts' rulings in most cases including that grandparent visitation encroached on parental rights, grandparent visitation not in the best interest of the child, and grandparent visitation that failed to follow procedural or statutory requirements. The authors discuss their conclusions about these judicial rulings as well as implications for further research and practice.

Hoeller, Mary J. "Mediation of Guardianship Adds New Twist." Indiana Lawyer 17.6. May-June 2006. 12 Nov. 2007 <[http://www.attorneyhoeller.com/Indiana Lawyer article.pdf](http://www.attorneyhoeller.com/Indiana_Lawyer_article.pdf)>. ♥

Guardianship mediation as a new alternative to contested guardianship proceedings, and discusses the ElderCareMediators website is discussed in this article. After giving a brief discussion of the guardianship process and issues that can lead to guardianship, the author introduces eldercare mediation as a healthy alternative. Guardianship law and the parameters of non-relatives serving as guardians are explored, as is the role of the eldercare mediator.

Hoffman, Diane E., and Naomi Karp. "Mediating Bioethical Disputes." ABA Dispute Resolution Magazine. Spring 1996: 10-12. 8 Feb. 2008

http://digitalcommons.law.umaryland.edu/fac_pubs/189/>. 

The article covers the different ways to make a decision in a health care setting including litigation, utilization of ethics committees, and mediation. The article compares and contrasts the three decision-making venues and explores ways that the venues can work together. The article also discusses "appropriateness" of mediation in different scenarios.

"Idea Checklist for Guardianship Mediators." BIFOCAL 28.3. Feb., 2007: 48-49. 8 Feb. 2008

http://www.abanet.org/aging/publications/bifocal/07/bifocal_feb_2007.pdf>.    

This BIFOCAL excerpt is simply a table presented to help guardianship mediators make sense of the possible responses they have available to them in relation to some concerns / arguments of guardianship mediation. Some concerns / arguments that are listed include the safety of the older person at home, disputes over end-of-life care, landlords threatening to evict an impaired tenant, and nine other common situations that can lead to guardianship.

Johns, Frank A., and Bernard A. Krooks. "The New Wrinkled Faces of Capacity: The Older Client with Diminishing Capacity." ACTEC Journal 30.4. Spring 2005: 302-308.  

This is an article broken into several sections that discusses capacity issues in relation to working with older persons. An analysis on what capacity issues will confront a professional, as well as a more detailed look at the legal professional is included within this article. Through several illustrations the authors show that the issue of diminishing capacity in older clients is an issues that "will be ever present, even escalating in the years to come as the Boomers hit old age." Their suggestion for professional organizations is that they prepare their members for the ethical strains that will confront them as they deal with diminishing capacity in their older clients.

Johnson, Carla K. "Siblings Revive Conflicts When Parent Care Comes Up." Fifty Plus Advocate [Chicago] 33.1. 4 Jan. 2007: 1+. 8 Feb. 2008
<http://www.fiftyplusadvocates.com/news/bostn_fpa_070104.pdf>. ♥ 👤

This newspaper column describes the tension and conflict that arose when three Chicago siblings found themselves in the position of caring for and making decisions for their elderly mother. The article describes elder mediation and explains how the burgeoning field can be very beneficial to the family conflicts that arise in the 20 million American families providing assistance for older family members. The article focuses on making the best choices for the senior, and that usually means having them as involved as possible. Article also provides tips for families making eldercare decisions.

Kadish, Josh. "The Role of the Attorney in Elder Mediation." Elder Law Section Newsletter 7.2. Spring 2004: 7-8. 8 Feb. 2008
<http://www.osbar.org/docs/sections/elder/newsletters/elder_spring04.pdf>. ♥ ♻️

The piece describes mediation as the best option for senior adults to resolve conflict in most situations and explains the attorney's role in the mediation. It describes the advantages and disadvantages of hiring a mediator with a legal background and explains how different mediators with different backgrounds approach conflict resolution differently. It also describes the option of having an attorney advise a client during mediation in order to provide assistance to the client while illustrating the ethical implications of such a situation.

Karp, Naomi, and Erica F. Wood. "Mediating Nursing Home Care Disputes: A Workable Option?" Clearinghouse Review 31.6. Sept./Oct. 1997: 243-5. [Available for free through the ABA at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>] 🏠 🚗

The article discusses the conflicts in nursing homes that range from "mundane" to "thorny." It continues to discuss how the American Bar Association Nursing Home Mediation Project was developed as a response to a need for conflict resolution in nursing homes. The mediation project method is reviewed as well as lessons learned and incentives for use. Other topics include staff-turnover and in-house mediation.

Kestner, Prudence, and Erica F. Wood. "Mediation: The Coming of Age- A Guide for Dispute Resolvers in Serving the Elderly." Alternative Dispute Resolution Newsletter, California Edition. Mar. 1992: 1+. [Available for free through the ABA at

<http://www.abanet.org/aging/publications/publicationslistorder.shtml>]    

This is an item about the multi-organizational Mediation: The Coming of Age- A Mediator's Guide in Serving the Elderly, a booklet describing ways and means of resolving disputes of older people. The article about the booklet summarizes the publication by discussing the aging network, the aging process, and suggestions for mediators. The article concludes that the booklet is an important resource for "ideas and contacts for groups interested in furthering mediation for the elderly."

Kim, Scott Y.H., Jason H.T. Karlawish, and Eric D. Craine. "Current State of Research on Decision-Making Competence of Cognitively Impaired Elderly Persons." American Journal of Geriatric Psychiatry 10.2 (2002): 151-165. 

This paper explains the research project conducted by the authors in the area of assessing the capacity of cognitively impaired persons to participate in decision-making processes. It accounts for the procedure used to collect evidence and shows all results of the research. The paper analyzes the researcher's conclusions that "although incapacity is common, many persons with dementia are capable of making their own medical and research decisions." The paper continues to emphasize that the emerging area of research into the capacity of cognitively impaired older persons is very important and has vast implications for preserving "the autonomy and welfare" of these older people.

Larsen, Rikk, and Crystal Thorpe. "Elder Mediation: Optimizing Major Family Transitions." Marquette Elder's Advisor 7.2. Spring 2006: 293-312. 8 Feb. 2008

<<http://www.elderdecisions.org/docs/ElderMediation-OptimizingMajorFamilyTransitions.pdf>>.   

This item compares the various methods of alternative dispute resolution available to older adults and presents elder mediation as the most promising option. It describes the benefits of elder mediation as well as the unique role of the elder mediator and other professionals. In addition, the article also discusses topics that are appropriate for elder mediation as well as ethical implications. Tips for choosing the elder mediator are presented, and a brief history of the field is also given.

Lustbader, Wendy. "Conflict, Emotion, and Power Surrounding Legacy." Generations 20.9. Fall 1996: 54-57. 🏠

This piece provides in-depth details of how conflict can arise between family members when legacy issues and planning are concerned. Sibling relationships are examined in the light of this situation, and techniques to provide a smoother transition are offered. The issue of "Power and Pain" between the generations are also described, and the article urges its reader to familiarize him or herself with the conflict that can occur surrounding legacy.

Mandel, David. "Mediation at a Legal Hotline: Wires Humming – But Not Crossed," Legal Hotline Quarterly 38 (2006): 11-15. 8 Feb. 2008

<http://www.seniorlegalhotline.org/mediation/documents/spring_mediation.pdf>. 🌐 📞

This article by the Supervising Attorney illustrates the relationship between advocacy and mediation at the California Senior Legal Hotline (SLH), and the "quasi-mediation role" hotline attorneys and advocates would occasionally take when providing advocacy assistance to the elderly through the hotline. It explains that because of the awkwardness of this arrangement, the California SLH initiated a pilot mediation program in which guidelines were developed that would help hotline staff clearly identify mediation cases and provide mediation assistance mainly through the phone to clients via newly hired and trained mediators. The article describes the initial difficulty and setbacks with the pilot mediation program, as well as the major makeover in 2006 when the SLH switched from a "narrative" and "transactional" mediation model to a "transformative" approach. It also describes case statistics and stories, as well as areas that need improvement. The article concludes that the mediation model California SLH has developed is a viable and important asset to the organization.

Marcantel, Virginia. "EM-Power Squared for Mediation." BIFOCAL 23.3. Spring 2002: 6-10. 29 Oct. 2007 <<http://www.abanet.org/aging/publications/bifocal/spring02.pdf>>. ✂

This piece discusses a joint Elder Mediation, or EM-Power, Project in Pennsylvania's Union and Snyder counties that seeks to implement "an alternative dispute resolution project that replicated an established, metropolitan Philadelphia-based senior mediation service." The article explains the project model and objectives, development and implementation of the project, recruitment and retention of volunteer mediators for the project, community outreach and education for elder mediation, as well as other topics.

Marcus, Leonard J., and Joan E. Roover. "Healing the Conflicts that Divide Us."
ACResolution Spring 2003: 17-19. 8 Feb. 2008
<http://www.hcna.net/whats/currentReleases_080603.htm>. 

This article discusses the unique complications that arise in decision-making in the health care setting. It discusses the advantages of mediation in health care and describes how to initiate a mediation session in this setting. The article's authors also give tips on building communication between the medical and mediation fields and why a medical background is advantageous for health care mediators.

Mariani, Kathryn. "Briefing on the First National Symposium on Ethical Standards for Elder Mediation." BIFOCAL 28.5. June 2007: 75. 29 Oct. 2007
<http://www.abanet.org/aging/docs/Jun_07_Bifocal_nwsltr.pdf>.  

Part one of a two-part article series that discusses a symposium convened by the Montgomery County Mediation Center in conjunction with Temple University's James E. Beasley School of Law on April 19-20, 2007 in Philadelphia, Pennsylvania. The article discusses the questions about elder mediation examined by the symposium attendees while highlighting the debate among elder mediation professionals regarding models of mediation.

Mariani, Kathryn. "Developing Ethical Standards for Elder Mediation: Questions Along the Way." BIFOCAL 28.6. Aug. 2007:85-90. 29 Oct. 2007
<http://www.abanet.org/aging/docs/Aug_07_ABA_Bifocal_J.pdf>.  

The second of a two part article series that continues discussing a The First National Symposium on Ethical Standards for Elder Mediation on April 19-20, 2007 in Philadelphia, Pennsylvania. The article follows-up on questions put forth in Part One including why elder mediation is an appropriate venue for conflict, the differences in the understanding of the denotation of elder mediation by professionals, capacity issues, the voice of the older person in mediation, as well as the debate between "mediation and advocacy" and other issues. Article highlights differences between mediation professionals in the elder mediation sphere while pointing out that the common goal of "support[ing] older adults, families, and care providers in a process where everyone has an opportunity to be heard and participate in decision-making."

McGinnis, Patricia L. "Dispute Resolution in Nursing Homes." NIDR FORUM. Summer/Fall 1991: 24-25. 🏠 🚗

The item explains that there are several methods of solving disputes that arise in nursing homes and begins with an example of one such impasse. The article continues to contend that not all disputes are amenable to traditional approaches of dispute resolution and that mediation is one option for some of these situations. The article emphasizes that mediation is not appropriate for all situations, but explains that it is gaining ground, especially after the OBRA '87 act that focuses on patient self-determination. Patient rights under the OAA are also summarized and the mediation process is shown in light of these laws.

Medford, Pat E. "Elder Mediation is Useful in Many Situations." Elder Law Section Newsletter 7.2. Spring 2004: 3. 🚶🚶🚶

This is a short article that defines elder mediation as "mediation of any conflict that involves elders, their family members, or others in their lives." It describes several settings and conflicts that involve elders that could eventually be mediated. It in brief explains that some cases are not appropriate for elder mediation and under what circumstances that is the case.

"Mediation Can Resolve Disputes in Guardianship Cases." Parent Care Advisor Dec. 1996: 8-10. ❤️

This article describes common disputes arising when guardianship is considered for an older family member and the negative aspects to familial relationships that can occur when these disputes are not settled or are brought to court. Guardianship mediation is presented as an alternative to guardianship, and the mediation process is explained. Key mediation stakeholders are described as well as the appropriateness of mediation in various scenarios.

Mewhinney, Kate. "Guardianship and Estate Mediation." Dispute Resolution Published by the NCBA's Dispute Resolution Section 20.2. Mar. 2006: 1-4. 30 Oct. 2007
<http://disputeresolution.ncbar.org/Newsletters/Newsletters/Downloads_GetFile.aspx?id=5831>. ♥ 💰 ⭐

This piece in the North Carolina Bar Association's Dispute Resolution Section's newsletter discusses the new laws and rules that are in place for guardianship and estate mediation in North Carolina as of March 2006. A description of the new law and rules are given as well as some background on situations leading to these kinds of mediation. Advantages of mediation are reviewed, and a mediation on the national scene is analyzed. Concerns about guardianship mediation are included in the article as well as mediation training standards for guardianship mediators and additional resources are listed.

Mewhinney, Kate. " 'THE MEDIATOR' – Coming Soon to a Guardianship Case Near You?" The Intermediary 4.4. Aug. 2005: 5-7. 8 Feb. 2008
<http://elder.ncbar.org/Newsletters/Newsletters/Downloads_GetFile.aspx?id=5271>. ♥ 👥

In a basic article about guardianship mediation, the author gives a common case involving conflict over long-term care of an elderly mother and explains why mediation may be the best option in trying to resolve conflict. The article explains advantages for both the family and the respondent while giving some guardianship mediation concerns. Plans to train mediators and the prevalence of guardianship mediation are also discussed.

Mewhinney, Kate. "North Carolina Tries Mediation for Estate and Guardianship Disputes." BIFOCAL 28.3. Feb. 2007: 35+. 29 Oct. 2007
<http://www.abanet.org/aging/publications/bifocal/07/bifocal_feb_2007>. ♥ 💰

This item describes the basic situations in which guardianship and estate planning mediation would be appropriate. It discusses in depth the new North Carolina laws enacted in the spring of 2006 and how this will affect stakeholders in mediation as well as mediators themselves. It continues to illustrate what kinds of cases are appropriate for guardianship mediation, which are not, and what kinds of disputes are common in guardianship matters.

Mignogna, Steven K. "Estate Planning Mediation on the Rise." New Jersey Law Journal 187.6. 5 Feb. 2007:1-2. 💰

A feature that discusses the increase in number of estate planning mediations. The article discusses several reasons why estate planning mediation is beneficial in comparison with traditional estate planning methods including reduced cost and the opportunity to fashion a remedy for the situation. The article also justifies the importance of finding a quality mediator for the estate planning mediation process. Several programs and examples from across the United States are given.

"Motivation for Mediation." Quality Improvement Journal. Jan. 2006: 1-2. 13 Nov. 2007 <http://www.kfmc.org/publications/QIJ/2006_01_QIJ_January.pdf>. 🖨️

An article that describes the authorization by CMS to allow the Kansas Foundation for Medical Care, Inc. review medical services provided to Medicare patients in Kansas. The article describes a problem that continuously arises within the Medicare service arena that has to do with patient written complaints. The review board often finds acceptable medical practice in the complaints, the problem being the misunderstanding or misperception of the patient and not a problem with the medical service. Mediation is described in detail as a desirable option for resolving these problems.

"National Guardianship Mediation Project Funded." National Guardian 10.1. Winter 1997: 8. ❤️💰

The limitations and restrictions of guardianship are presented through testimony of Penelope Hommel, Co-Director of The Center for Social Gerontology (TCSG), and the 1991 Washtenaw County (Michigan) Probate Court project to test the use of mediation in adult guardianship cases is explored. Results of the project are discussed as well as plans to expand the project and what the expanded project will entail.

Park, Marilyn, Erica F. Wood, and Vicki Gottlich. "Developing a Legal Services Program Policy on Alternative Dispute Resolution: Important Considerations for Older Clients and Clients with Disabilities." Clearinghouse Review 26.6. Oct. 1992: 635-643.  

This article examines the process of developing a legal services program policy on alternative dispute resolution, especially in regard to important considerations for older and disabled clients. The article discusses a common skepticism and aversion to alternative dispute programs among advocates for the poor but emphasizes that the unique vulnerabilities of older and disabled people make alternative dispute resolution an extremely valuable method. It focuses in how "legal services workers can respond to the burgeoning ADR movement... in ways that will safeguard and strengthen the rights of their older clients and clients with disabilities."

Parsons, Ruth J., and Enid O. Cox. "Family Mediation in Elder Caregiving Decisions: An Empowerment Intervention." Journal of the National Association of Social Workers 34.2. Mar. 1989: 122-126.   

Trends involving the increase in family caregiving across the United States are presented in this article, as well as the conflicts that can arise in these situations that can lead to breakdown in the family's "ability to provide needed care and support for elder members." The article argues that "mediation is an effective strategy for problems presented and an appropriate role for social workers." Principles and techniques of as well as limitations of mediation are discussed. The older person's role in the mediation is also examined.

Philpotts, Jamie. "Report Urges Paradigm Shift in Approach to Dying." BIFOCAL 27.2. Dec. 2005: 25. 29 Oct. 2007 <<http://www.abanet.org/aging/publications/bifocal/05/dec.pdf>>. 

A short piece that reviews the 60-page compilation of essays by The Hastings Center that suggests that "the key to improving end-of-life care depends on a cultural acknowledgement that the way people eddies is a continuum of the way they live." The article discusses the compilation and shows the reader the three specific steps towards reform of which the compilation advocates.

Rhudy, Robert J. "How Senior Mediation Can Help Your Clients." The Elder Law Extra Spring, 2006: 1+5. ♥ 💰 🚗

A short article that explores the various situations involving elderly clients that would be appropriate for mediation including guardianship proceedings, estate planning, and continuing care disagreements. The author discusses steps taken by the Maryland Alternative Dispute Resolution Task Force and the Maryland Mediation and Conflict Resolution Office (MACRO) to expand mediation for older people as well as advantages of mediation for older clients.

Rhudy, Robert J. "MACMC Focuses on Senior Mediation." MacNEWS: Community Mediation in Maryland 1.2. Winter 2005: 1. 8 Feb. 2008

<<http://www.marylandmediation.org/members/docs/MacNews1-2.pdf>>. ♥ 🚗 🚗 💰

This piece explains that the state of Maryland has an increasing population over 60 years old, and that disputes within this demographic are just as prevalent as with any other group if not more, especially in health care, home care, care-giving, estate planning, and other areas. It discusses a grant given to the Maryland Department of Aging (MDoA) to "increase the awareness, provision, and use of mediation by seniors and their families." It also mentions the MDoA Adult Guardianship and Family Caregiver Mediation Training.

Rhudy, Robert J. "Mediating with Seniors in Maryland." MACROSCOPE Newsletter of the Maryland Mediation and Conflict Resolution Office (MACRO) 8. June 2006: 13. 8 Feb. 2008 <http://www.courts.state.md.us/macro/pdfs/macrosopes/macro8-june_2006.pdf>.



This brief article discusses conflict that can occur in families over the care of an older person. It offers mediation as an option to help these disputes. It briefly explains the Maryland Department of Aging's Maryland Senior Mediation Project and the services available through the program.

Rhudy, Robert J. "Senior Mediation Reaching the Tipping Point." The Maryland Bar Journal 41.2. Mar./Apr. 2008: 12-19. ♥ 🗿 🔊

An article written for the Maryland Bar Journal describes the work of the Maryland Department of Aging since 2005 to "promote the development and use of mediation and related services to help avoid, prevent, and resolve conflicts involving older persons, their families, and others in a wide range of issues." It gives a basic background of senior mediation and discusses its rise nationally. The Maryland Senior Mediation Project is also described as well as other activities underway in Maryland and other parts of the country to promote senior mediation. Some framework for elder law attorneys is given in order to assist the lawyers assist their clients most beneficially.

Rhudy, Robert J., and Carolyn J. Rodis. "Expanding Mediation for Seniors and their Families in Maryland." ACResolution Summer, 2005: 30-31. ⭐

This short article that discusses typical scenarios "typical of the decisions and conflicts facing aging persons and their families today." It explores why mediation and facilitated decision-making can help families acknowledge and resolve these often long-running family issues. The article also recognizes the Maryland Department of Aging's "Maryland Senior Citizen Mediation Project" as well as other efforts by Maryland organizations to promote and set standards for senior mediation.

Richardson, Darcie. "Elder Mediation Program Update." DRC News 7.1. Mar. 2007: 2. 6 Feb. 2008 <http://www.mediatethurston.org/forms/2007_Spring_Newsletter_Final.pdf>.



This very brief item provides an update on the Elder Mediation Program of the Dispute Resolution Center of Thurston County, Washington. Highlights include the announcement of the recently-completed skill-building workshop with family caregivers, a Networking/Outreach Event with the local area agencies on aging, and an announcement regarding an interview of the DRC by Panorama City's closed circuit monthly television program.

Robson, Rob, and Virginia L. Morrison. "The Final ADR Frontier: Conflict Resolution in Health Care." ACResolution. Spring 2003: 20-21. 8 Feb. 2008 <<http://www.chi-resolutions.com/docs/acr-03spring.pdf>>.   

This is an article that discusses the health care arena as one of the last major frontiers left in which to implement and utilize alternative dispute resolution methods. The article's authors point out that the health care system "has a number of characteristics that make it less amenable to using ADR than other environments." However, despite the challenges to the system, there are advantages to ADR in health care, and the authors highlight many ways to help implement the methods in the health care field such as increasing education of ADR methods for health care professionals, encouraging referrals to ADR from health care professionals, and other techniques.

Roscoe, Jerry P., and Deidre McCarthy Gallagher. "Mediating Bioethical Disputes: Time to Check the Patient's Pulse?" Dispute Resolution Magazine. Spring 2003: 21-23. 11 Sept. 2007 <http://www.jamsadr.com/j_pub/show_article.asp?id=75>.  

This piece illustrates the need for alternative dispute resolution in end-of-life decision-making in long-term care and hospital environments. However, it also presents the ethical dilemmas that face stakeholders, especially when the patient is incapacitated. Advantages and limitations of mediation in this situation are compared while also contrasting mediation with the traditional means of dispute resolution through involvement of a hospital ethics committee.

Rosenbaum, Sara, and Tee Guidotti. "Expanding ADR in Health Care: Need for Consensus on Emergency Preparedness May Increase ADR Use in Public-Health Arena." ABA Dispute Resolution Magazine. Fall 2004: 19-22. 

This article demonstrates that the need "for consensus on emergency preparedness may increase ADR in public-health arena." The delicate balance that exists between the "need for the government to intervene in order to protect population health, and the desire of individuals and private economic interests to be free of regulation" makes alternative dispute resolution a good option for the health care industry. That a formal ADR structure is needed is also discussed as well as possible starting points for ADR in public health care.

Rudnick, Alice J., and Jeff Shepardson. "Elder Dialogue and Mediation: Meeting Intergenerational Needs." The New York Mediator. Fall/Winter 2006: 8-10. 8 Feb. 2008 <http://www.courts.state.ny.us/ip/adr/Publications/New_York_Mediator/FallWinter2006.pdf>.   

This item illustrates three scenarios involving older persons that would be potential cases for elder mediation: long-term care decision-making, guardianship, and care giving. It continues to explain the unique disputes that arise involving elders, and why mediation can be a positive and useful tool in working through some of the disputes. The article discusses early elder mediation efforts including studies done by national organizations such as the ABA and the AARP and pioneering work done by Penny Hommel, the Co-Director of TCSG. Continues to discuss how elder mediation has grown as a field and the implication for elder in society.

"Rules Implementing Mediation in Matters Before the Clerk of Superior Court." Dispute Resolution Published by the NCBA's Dispute Resolution Section 20.2. Mar. 2006: 5-8. 30 Oct. 2007 <http://disputeresolution.ncbar.org/Newsletters/Newsletters/Downloads_GetFile.aspx?id=5831>.  

This piece is simply a list of the twelve rules in North Carolina designed to implement mediation in matters before the Clerk of Superior Court. The rules include specifics about initiating a mediation; selection of a mediator; the mediation process; duties of parties, attorneys, and other mediation participants; sanctions for failure to attend mediation; authority and duty of mediators; compensation of the mediator; information about mediator certification and decertification; certification of mediation training programs; procedural detail; definition of key mediation terms; and time limit information.

Sabatino, Charles P. "Assessing Clients with Diminished Capacity." BIFOCAL 22.4. Summer 2001:1+. 29 Oct. 2007 <<http://www.abanet.org/aging/publications/bifocal/summer01.pdf>>. 

This article defines the concept of "capacity," especially in regard to an attorney's elderly client, as well as illustrating the importance for an accurate assessment of capacity as soon as possible in the lawyer-client relationship. The piece also lays out four steps in order to optimize capacity and five steps to preliminary assessment of client capacity.

Sabatino, Charles P. "Representing a Client with Diminished Capacity: How Do You Know It And What Do You Do About It?" Journal of the American Academy of Matrimonial Lawyers 16.2. 2000: 481-505. 8 Feb. 2008
<<http://www.aaml.org/i4a/pages/In dex.cfm?pageid=3373>>. 🗨️

This piece discusses the implications of representing a client, especially an elderly client, with diminished capacity. It discusses in detail what "decision-making capacity" entails and how an attorney can best assess their client's capacity. The author also discusses the concept of "Protective Actions" and the idea of pursuing the "least restrictive alternative action under the circumstances."

Schmitz, Suzanne J. "Mediation and the Elderly: What Mediators Need to Know." Mediation Quarterly 16.1. Fall 1998: 71-84. 🗨️ ⭐

This article addresses the importance of mediators understanding the specific needs that are involved in mediation of the elderly. Competency and communication are the two most important aspects when mediating with elderly people, and the article gives recommendations for the mediation process to enhance these aspects. Advice for an expansion of knowledge for mediators about the senior citizen population are offered.

Schneider Houk, Carole, and Barbara I. Moidel. "Integrated Conflict Management Systems in Health Care: A Practical Innovation Whose Time Has Come." ACResolution. Spring 2003: 30-31. 8 Feb. 2008 <<http://www.chi-resolutions.com/docs/acr-03spring.pdf>>. 🗨️

This item discusses the need for an *Integrated Conflict Management System* for health care organizations that moves beyond the traditional mediation and arbitration models. It explains the advantages for having such a system in place and why it is superior to previous conflict-resolution models. The article continues to discuss the nation's first model enacted at the National Naval Medical Center, the Organizational Ombudsman and Mediator Program, and why the model will serve as a template for other health care organizations in the future.

Scott, Charity. "Mediating Life and Death." Rev. of Bioethics Mediation: A Guide to Shaping Shared Solutions, by Nancy Dubler and Carol B. Liebman. ABA Dispute Resolution Magazine Fall 2004: 23-26. 📄

This is book review of Nancy Dubler and Carol B. Liebman's book Bioethics of Mediation: A Guide to Shaping Shared Solutions. The review states that the "primary premise of this book is that the best process for analyzing and resolving conflicts in bioethics consultation is a meditative intervention." The review focuses on the book's coverage of bioethics consultation vs. bioethics mediation, mediation in health care settings, a guide to bioethics mediation, mediation skills and techniques, bioethics mediation vs. traditional mediation, and the role for mediation in other health care conflicts.

Scully-Hayes, Kathleen. "Mediation and Medicare Part A Provider Appeals: A Useful Alternative." Journal of Health Care Law & Policy 5.2. 2002: 356-363. 29 Oct. 2007 <http://www.law.umaryland.edu/journal/jhclp/documents/vol.5_2.pdf>. 📄

This article recognizes that the "Provider Reimbursement Review Board (PRRB)" has begun to use mediation as a way to resolve Medicare Part A provider reimbursement appeals in a more efficient manner. It discusses who the PRRB is and how a mediation pilot program became part of the dispute resolution process for the organization. The conclusion of the findings is that mediation in this venue is both more timely and cost-effective than other traditional means of resolving conflict.

Scully-Hayes, Kathleen. "The Revised Provider Reimbursement Review Board (PRRB) Instructions and the Medicare Mediation Process." First Illinois Speaks: A Newsletter from HFMA's Illinois Chapter. May 2003: 3-4. 17 Jan. 2008 <<https://www.cms.hhs.gov/PRRBReview/downloads/1999D58.pdf>>. 📄

This article published in the Illinois branch of the Healthcare Financial Management Association's newsletter in May, 2003 seeks to address several of questions regarding the Centers for Medicare and Medicaid Services Office of Hearing mediation option. These questions include what mediation is; why the PRRB uses mediation to resolve some cases; what kinds of PRRB cases will benefit from mediation; who will conduct the mediation; how the process works; among others.

Senft, Louise Phipps. "What to Do About Mom's Failing Health? Mediation and Elder Care." Family Mediation Quarterly 5.4. Fall 2006: 3-4. 29 Oct. 2007
<<http://www.mcfm.org/articlefmq.htm?sid=9>>. ♿️ 🌟

This piece begins with two different scenarios involving the decision-making process with older adults. It continues to describe benefits of mediation for families and explains why mediation works so well where traditional conflict-resolution processes seem to fail. The article also analyzes specific aspects of mediation with seniors that is unique and needs special consideration. The article highlights the author's phrase, "better process... better outcome."

Soeka, Eva M. "Adult Guardianship Mediation." ABA Experience Magazine 9.3. Spring 1999: 10+. ♥

This article explains the constrictive nature of guardianship and suggests that Adult Guardianship Mediation is a useful and rights-preserving alternative for older persons. It gives a definition of adult guardianship mediation and describes situation in which this mediation would be most appropriate. The adult guardianship mediation process is examined, and describes several projects and studies on this kind of mediation.

"Symposium Held on the Topic of Elder Law Mediation." The NLTP Quarterly. Spring 2007: 33-4. 30 Oct. 2007
<http://aarpnltp.grovesite.com/GSLibrary/Downloads/download.ashx?file=sites/853/4644/61477/SpringQuarterlyFINAL_07.pdf>. 🌟

A short item featured in the AARP's magazine The NLTP Quarterly that discusses the Symposium on Ethical Standards for Elder Mediation that was held in Philadelphia, PA on April 19-20, 2007. It describes the symposium's focus, participants involved, discussions held, and the results of the symposium. Information about The Center for Social Gerontology and the organization's contribution to the field of elder mediation is also mentioned as well as TCSG's definition of elder mediation and its potential.

Talbert, Robin. "Resolving Disputes with Dignity." Aging Today. Mar./Apr. 1993: 15. 🌟 🙌

This is a very short article discussing the rise of elder mediation based on the development of senior-specific disputes. The results of mediation is briefly accounted for, and the fact that programs targeting seniors need to "ensure that mediators are sensitive to the special need of older persons..." Some experimental elder mediation programs are mentioned.

Talbert, Robin, and Naomi Karp. "Collaborative Approaches: Aging, Disability, and Dispute Resolution." Clearinghouse Review 29.6. Oct. 1995: 638-642. [Available for free through the ABA at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].  

This article introduces alternative dispute resolution as "the most significant change in our legal system in decades." It discusses cutting-edge topics such as the Americans with Disabilities Act, pensions, and Social Security Disability cases all as areas appropriate for ADR. It also examines issues and concerns with mediation for the aging and disabled such as ethical issues, the issue of ADR as "second-class justice," and consumer concerns with arbitration.

Wade, John. "Forms of Power in Family Mediation and Negotiation." Bond University Faculty of Law; Law Papers. 2007: 1-23. 28 Aug. 2007
<http://epublications.bond.edu.au/law_pubs/106/>.  

This paper's aim is to "demonstrate that the concept of 'power' in or mediation is complex" and that "mediators... who openly discuss sources of power will be more successful in educating disputants and assisting with constructive decision-making." It discusses that some scenarios are not appropriate for mediation because of "inequality of bargaining power," and helps mediators be aware of and able to describe various sources of power that may influence negotiations.

Waldman, Ellen. "Hospital Ethics Mediation Balances Life and Death." Alternatives to the High Cost of Litigation 17.1. Jan. 1999: 14-16. 

This article describes common disputes that can occur in the hospital setting and advocates for the utilization of alternative dispute resolution. It explains the history of the formation of hospital ethics committees and describes how the model these committees are following has slowly shifted from a medical model, to the adjunctive, and then to the mediation model. The mediation model is examined including its benefits and risks.

West, Mary Beth, and Joan McIver Gibson. "Facilitating Medical Ethics Case Review: What Ethics Committees Can Learn from Mediation and Facilitation Techniques." Cambridge Quarterly of Healthcare Ethics 1. 1992: 63-74. 🗂️ 🖐️

This piece explains the function and increase of hospital ethics committees while highlighting that fairly little attention has been paid to the processes in which these committees work. It describes a project designed by the Institute of Public Law at the University of New Mexico School of Law "to look at what ethics committees can learn from facilitation and mediation techniques." The study contended that these techniques would be helpful to the committee process, and this article reports on that study.

Whitenack, Shirley B. "Using Mediation to Resolve Conflicts Involving the Elderly." ElderLaw Report. Oct., 2005: 1-5. 👥 🧠

This article discusses mediation for older people and their families. It gives a basic background of what mediation is and what its benefits are, and then delves into different types of mediation. The article continues to explore mediation advantages and disadvantages, as well as the cost of mediation, and types of elder law matters that are and are not suitable for mediation. The article accounts for incapacity of the older person and focuses on protecting the rights of the elderly client.

Wilber, Kathleen H., and Sandra L. Reynolds. "Rethinking Alternatives to Guardianship." The Gerontologist 35.2. Apr. 1995: 248-57. ❤️ 💰 🗂️

This item in The April 1995 Gerontologist describes guardianship and its intended role and function as well as several alternatives to guardianship, including financial managements and health related decision-making services. The paper states problems with the guardianship process, but also contends that only limited research of guardianship alternatives have been done. It gives a framework for analyzing alternatives to guardianship and concludes that "excessive reliance on initiatives to reduce guardianship diverts decision makers from considering appropriate types and levels of other financial management and health-related decision-making services."

Wood, Erica. "Six More Mediation Projects." BIFOCAL Summer, 2005: 38-39. 29 Oct. 2007
<<http://www.abanet.org/aging/publications/bifocal/summer05.pdf>>.  

This is a short article that describes six mediation projects funded in 2005 by the Partnerships in Law and Aging Program with six grants of approximately \$7,500 each. The programs include "Em-Powering Seniors in a Rural Area," Central PA; "Expanding Mediation Outreach to Seniors," Riverside, CA; "Training Tribal Elders as Peacemakers," Dakota Plains; "Making Mediation Accessible and Affordable to Seniors," Yakima and Kittitas Counties, WA; and "Reaching Higher Ground with Community Collaborations," Norfolk, VA.

Wood, Erica F., and Robert Hoffman. "Mediation: New Path to Problem Solving for Older Americans." AARP Senior Consumer Alert. Winter 1991-1992: 1-7. [Available for free through the ABA at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].



This is a basic piece written to give the reader an understanding of mediation as a new method of solving problems for older persons. Through a basic introduction to mediation and a description of the mediator role, the article is able to prepare the reader for a discussion on mediation of conflicts involving older persons. The article mentions several cutting edge developments in the mediation sphere including mediation projects sponsored by the AARP and the ABA; mediation of nursing home disputes, guardianship disputes, home care problems, pension benefit claims, and attorneys general dispute resolution projects. It also discusses areas that still need development.

Wood, Erica F., and Naomi Karp. "'Fitting the Forum to the Fuss' in Acute and Long-Term Care Facilities." Clearinghouse Review 29.6. Oct. 1995: 621-8. [Available for free through the ABA at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].



This item discusses the disagreements that arise in hospital and long-term care facilities over treatment and care issues. The article explores options for dispute resolution that include doctor-patient communications, an interdisciplinary care team, patient representatives, bioethics consultants, ethics committees, risk managers and hospital counsel, long-term care mechanisms, Long-Term Care Ombudsman, and several various, relevant methods of mediation such as in acute and long-term care mediation.

Wood, Erica F., and Naomi Karp. "Mediation: Reframing Care Conflicts in Nursing Homes." Generations 18.4. Winter 1994: 54-57. [Available for free through the ABA at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].  

The article, through the use of several examples of hospital and long-term-care disputes, examines evolving legal rights of patients in "bioethical disputes" as well as the odds for finding a satisfactory resolution for these disputes. The article presents mediation as a promise for bioethical disputes and shows examples of when mediation has been put to the test in this context.

Wood, Erica F., and Naomi Karp. "Mediating Care Conflicts in Nursing Homes." Mid-Atlantic Ethics Committee Newsletter. Winter 1996: 1+. [Available for free through the ABA at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].    

This item discusses the newly developed field of bioethics mediation and whether it is appropriate or effective to use the method to resolve bioethical debates. The article reports on how the ABA's Commission on Legal Problems for the Elderly has put the method to the test, and describes the case profiles administered by the Commission. The ethical issues found and described include "a communicative ethic," "mediation ethics," and "ethical issues in resident care conflicts."

Wright, Jennifer L. "Protecting Who from What, and Why and How?: A Proposal for an Integrative Approach to Adult Protective Proceedings." Elder Law Journal 12.1. Spring 2004: 53-57.   

This is an article that explores the different "adult protective proceedings in an effort to maximize the therapeutic potential of the proceedings, achieve their common goal, and still ensure the essential rights of the protected individual. The proceedings include guardianship and civil commitment proceedings. The article's author hypothesizes that the "current statutes fail to achieve the underlying values that justify the existence of adult protective proceedings" and concludes by proposing "a statutory scheme that incorporates these [above-mentioned] necessary values and goals."

B. ARTICLES FOUND ON MEDIATE.COM

Bachle, Laura. "Estate Planning and Family Business Mediation." Mediate.com. Sept. 2001. 22 Aug. 2007 <<http://www.mediate.com/articles/gromala3.cfm>>. 

This article discusses two newly established fields in mediation, estate planning and small business, and portrays two leaders in the field. John Gromala is becoming well known for using mediation during the formation or reorganization of a business and during estate planning. David Gage founded a firm, which specializes in preventing and resolving disputes that arise in "intimate business groups" - partners, boards of directors, and family owned businesses. Both mediators emphasize the prevention of conflict.

Belak, Tony. "The Use of Mediation in the Patient Complaint Process." Mediate.com. Jan. 2003. 6 Sept. 2007 <<http://www.mediate.com/articles/belak3.cfm>>. 

This article outlines the advantages of mediation over litigation, which include improved communication, a clearer understanding of the events and substantial savings in time and money. In spite of the limited history of the use of mediation in health care, the author predicts an increase in demand for this service in the future.

Bertschler, Patricia, and Patricia Ruffin. "Elder Mediation: New Role in Healthcare." Mediate.com. Sept. 2004. 22 Aug. 2007 <<http://www.mediate.com/articles/ruffinP1.cfm>>.  

The authors see the value of elder mediation taking place in two settings, outpatient and inpatient. Outpatient options discussed include geriatric assessment, counseling, mediation, and the services of specialty agencies for seniors. Conflicts among the inpatient population typically arise among adult children and other family members, between family and caregiver staff, and around end-of-life decision-making.

Blank, Kathleen. "It is Not a Disability Issue." [Mediate.com](http://www.mediate.com). June 2003. 12 July, 2007
<<http://www.mediate.com/articles/blankK1.cfm>>. 

A piece that is part of a collection on "Capacity to Mediate" posted on Mediate.com that was originally published in the *Alternatives Journal* in July 2003. The article focuses on party capacity to mediate that often arises "in the context of disputes involving one or more parties with disabilities." However, the article argues that "parties with disabilities more often may be judged unfairly as lacking in capacity" and that the "link between disability and capacity reflects a persistent and stigmatizing trend in the larger society." The definition of capacity is weighed, problems of accommodation are discussed, and insights into how to address obstacles are offered in this article challenging traditional views of capacity and disability.

Cohen, Judith. "ADA Mediation Guidelines: An Ongoing Endeavor." [Mediate.com](http://www.mediate.com). Mar. 2003. 27 Apr. 2007 <<http://www.mediate.com/articles/cohen4.cfm>>. 

This article discusses the three-year process of developing the ADA Mediation Guidelines as well as the resulting developments that grew from the collaboration process that continued by the authors after Guidelines were released. The areas of the ADA Mediation Guidelines examined in the article include disability access to mediation, mediation capacity, procedures, addressing reasonable accommodation issues, and using neutral experts and resource partners. The article stresses that the Guidelines were created only with widespread contribution by mediation field experts and will improve only with further interest and development.

Cohen, Judith. "Convening for Enhanced Self-Determination and Access to the Process." [Mediate.com](http://www.mediate.com). July 2003. 12 July 2007 <<http://www.mediate.com/articles/cohen6.cfm>>. 

This item discusses the useful role of a convenor in the planning of a mediation between parties with emotional or cognitive disabilities. The convenor begins works with the party before the actual mediation, in order to coach him or her to be the most effective negotiator the individual can be. Disability-related obstacles provide the context for analyzing what the parties will need to ensure full participation. Topics covered include key issues to convening practice, goals, key players, obstacles to resolution, and likely outcomes.

Cohen, Judith. "Fulfilling Your Obligations on Mediation Capacity." [Mediate.com](http://www.mediate.com). July 2003. 12 July 2007 <<http://www.mediate.com/ADAMediation/editorial5.cfm>>. 

This article explores when the mediator needs to be aware and concerned that a mediation participant "appears to have difficulty comprehending the mediation process, or seems unable to participate actively." The article offers five articles and a recommendation on ethical codes that "respond to the issues to diminished mediator consideration of self-determination.

Cohen, Judith. "Making Mediation Sessions Accessible to People with Disabilities." [Mediate.com](http://www.mediate.com). June 2000. 21 Aug. 2007 <<http://www.mediate.com//articles/cohen.cfm>>. 

This piece's main theme is to help the mediator best understand how to make mediation accessible to people with disabilities. The author argues that the mediator's ability "to use appropriate disability etiquette and language and to handle access arrangements has an impact on the parties' future interactions, as well as on the interpersonal dynamic of the session." The article discusses several examples of how to ensure accessibility including pre-session arrangements, having the mediator educate themselves about the participant's disability, assessing the attitude of the mediator, setting up the mediation room appropriately, tips for how to run the mediation session, and many other suggestions and pointers.

Coy, Patrick G., and Timothy Hedeem. "Disabilities and Mediation Readiness in Court- Referred Cases: Developing Screening Criteria and Service Networks." [Mediate.com](http://www.mediate.com). Sept. 2000. 12 July 2007 <<http://www.mediate.com/articles/cohed1.cfm>>.  

This feature focuses on a genre of conflict resolution cases "where a disputant's psycho-social health and capabilities place special demands on community mediation centers, or, in more extreme cases, may make community mediation a poor choice of dispute resolution venue." Through a thorough examination of disputant capabilities, the minimalist approach to criteria, and how to apply the criteria, the authors are able to make their case. A detailed look at the Fitch-Spencer case provides a real life example, and the authors give their recommendations.

Dugan, John, and Arline Kardasis. "Elder Decisions in Elder Mediation." Mediate.com. Jan. 2005. 22 Aug. 2007 <<http://www.mediate.com/articles/dugan1.cfm>>. 

This article discusses elder mediation and what kinds of situations involving older persons are appropriate for this kind of mediation. It gives a brief definition of elder mediation and tells of the major life changes that occur to initiate conflict in an elderly person's life including housing changes, loss of financial control, and new conversations with adult children about family finances.

Gage, David, and John Gromala. "Mediation in Estate Planning: A Strategy for Everyone's Benefit." Mediate.com. Nov. 2002. 22 Aug. 2007 <<http://www.mediate.com/articles/gromala7.cfm>>.   

This piece advocates for the use of mediation in estate planning as opposed to traditional methods of dispute resolution. The article identifies several problems that can lead to familial conflict over estate planning and offers some suggestions for how to change the estate-planning process to address these problems. Some areas of discussion include the problem of a familial lack of communication, the issues of conflicting needs and conflicts of interest, the role the mediator should play, when the mediator is needed, among others. Several case studies are also given for illustration.

Grey, Robert. "Mediation of Guardianship and Elder Law Cases." Mediate.com. Fall 2000. 22 Aug. 2007 <<http://www.mediate.com/articles/grey.cfm>>. 

This article discusses the use and advantage of mediation in guardianship determination cases, particularly those where guardianship is contested. Like divorce cases, guardianship cases are often used as a weapon to establish a winner and a loser in court. Mediation could focus on helping the parties establish a relationship that will survive the dispute and foster an ongoing relationship.

Gromala, John. "The Use of Mediation in Estate Planning: A Preemptive Strike Against Potential Litigation." Mediate.com. May 1999. 22 Aug. 2007 <<http://www.mediate.com/articles/estate.cfm>>.   

The author of this piece encourages his reading audience to access mediation in estate planning to preemptively strike against potential litigation. It gives several reasons why mediation is advantageous in the estate planning sphere including mediation's confidentiality, its ability to address conflicting needs and conflicts of interest, the complexities of the family relations, and others.

Hamilton, Jack, and Elisabeth Seaman. "Between Aging Parents and Adult Children." Mediate.com. Mar. 2000. 22 Aug. 2007

<<http://www.mediate.com/articles/generational.cfm>>.  

This piece describes in detail the familiar situation of a conflict between an elder living by himself and his daughter who does not feel this is safe. The mediator's role is to explore the interests of the parties hidden in their positions and to encourage them to dialogue about options for possible solutions.

Hedeem, Timothy. "Ensuring Self-Determination through Mediation Readiness: Ethical Considerations." Mediate.com. July 2003. 12 July 2007

<<http://www.mediate.com/articles/hedeemT1.cfm>>.   

A short item that examines a "few implications of self-determination for mediation practice" including the issues of disputant capacity, issues of capacity in adult guardianship mediation, the difficulty for the mediator to determine a participant's capacity, and the ethical obligation of mediators to help ensure full participation by all parties. Author offers several articles for further reading throughout his piece.

Larsen, Rikk. "Mediating a Key Estate Settlement Issue – Dividing Personal Property." Mediate.com. Mar. 2003. 22 Aug. 2007

<<http://www.mediate.com//articles/larsenR1.cfm>>.  

This item highlights the division of personal property as a catalytic moment for families involved in estate settlements. The intensity of disputes over specific items is often inversely proportional to its market value. The mediator's role includes encouraging a reality check by way of a professional appraisal; as well as help with identifying and working through emotional conflicts attached to heirlooms and memories.

Larsen, Rikk. "Mediation in Today's Estate Settlement World." Mediate.com. Sept. 2002. 22 Aug. 2007 <<http://www.mediate.com//articles/larsenR.cfm>>.   

This article sees the market for mediation in estate settlements grow with increasing numbers of 'baby boomers' arriving at the last stage of their parents' and their own lives. The authors encourage ongoing efforts to convince 'entrenched professionals,' such as lawyers, financial planners etc. of the advantages of mediation; to work with probate courts to promote mediation as a court approved options; and to continue marketing mediation as a preferable alternative to adjudication.

Larsen, Rikk. "Tipping Points – Reasons Why Mediation Works in Complex Family Disputes." Mediate.com. Sept. 2003. 27 May 2007

<http://www.mediate.com/articles/larsenR2.cfm>>. 

This very brief feature explains why mediation is so often successful even when involving very complicated and drawn-out family conflict. The author explains that families who are ready to try mediation to find a solution are at the "tipping point" and are therefore susceptible to positive change. The article argues that most family conflict involves five elements that make it possible for families to come together to make difficult decisions: long term connection, space, brevity, free choice, and neutrality.

Larsen, Rikk, and Blair Trippe. "Tough Elder Decisions: The Mediation Option."

Mediate.com. May 2004. 25 Apr. 2007. <http://www.mediate.com/articles/larsenR3.cfm>>.



This article identifies that Elder Mediation is a growing field in the mediation sphere due to the revolutionary way that families are dealing with elder transitions. It examines the difficulty that some families can have based on the complications of elder decision and asserts that Elder Mediation can provide a positive alternative to the potentially painful process. The article describes the various forms of elder mediation and the benefits for the older person as well as the entire family in general.

Linden, Jon. "Beyond Neutrality (Book Review)." Rev. of Beyond Neutrality, by Bernie Mayer. Mediate.com. Aug. 2004. 27 May 2007

<http://www.mediate.com/articles/linden19.cfm>>. 

This is a review of Bernie Mayer's book Beyond Neutrality. The review highlights that Mayer's central focus in his book was to recognize that ADR/mediators "should be able to help their clients more, by expanding the roles that each of us will play." It also determines the book's other central points such as the redefinition of how mediators view themselves, that mediators are conflict specialists and should contain and make productive the conflict, and challenging the competency and quality of the established mediator base. The book's central theme of remaining neutral is hailed by the review's author, and he encourages the reader to examine for themselves the important questions Bernie Mayer's book poses for mediation and ADR professionals.

“Mediation Brings Doctors, Patients Face to Face.” American News Service and Mediate.com. Apr. 2000. 12 Nov. 2007

<http://www.mediate.com/articles/ansmedic.cfm>>. 

This article explains the use of mediation in disputes between doctors and patients. The use of mediation is beneficial to both patients and doctors by sharing their stories and learning from mistakes. The practice of mediation can also have benefits for consumers, too, because the cost of health care can be reduced if HMOs are involved in fewer costly litigations.

“Mediation Capacity and Self-Determination: A Recommendation on the Model Standards of Conduct.” Mediate.com. July 2003. Committee on Legal Issues Affecting People with Disabilities and the Committee on Alternative Dispute Resolution of the Association of the Bar of the City of New York. 12 July 2007

<http://www.mediate.com/articles/nycbar1.cfm>>.   

This short piece draws attention to a passage in many mediator ethics codes that calls for the mediator to terminate or postpone a mediation session if the party cannot participate due to “physical or mental incapacity.” The article consequently declares that limiting the concept of mediation capacity “is stigmatizing to people with disabilities and may lead to the exclusion of persons with disabilities who, with or without accommodation, could fully participate.” It therefore upholds the recommendation of two important mediation authorities to modify the language in ethics codes.

Mitchell, Janet E. “Eldercare Mediation: A New Way to Make Decisions Regarding Aging Parents.” Mediate.com. Sept. 2003. 22 Aug. 2007

<http://www.mediate.com/articles/mitchellJ.cfm>>.  

This article describes the difficulties that can arise from disagreements about the care of aging parents among their adult children, particularly if one out of several children serves as the caretaker. The role of the mediator is to help keep the parties focused on what is appropriate for the elders and how to best serve their needs.

Noble, Cinnie. "Mediation Coaching: A Form of Conflict Coaching." [Mediate.com](http://www.mediate.com). Apr. 2004. 21 May 2007 <<http://www.mediate.com/articles/noble4.cfm>>. 

This short article describes mediation coaching as a 'hybrid of mediation and conflict coaching.' Coaches help individuals identify their interests and improve their conflict management skills. For example, the coach can train a party to role-play possible responses to anticipated reactions from the other side, and provide feedback to the client's response to a challenging situation. Other techniques practiced during coaching can be listening skills, preventing unnecessary disputes, and using non-violent language.

Noble, Cinnie. "Mindfulness in Conflict Coaching." [Mediate.com](http://www.mediate.com). Aug. 2006. 25 Apr. 2007. <<http://www.mediate.com/articles/nobleC9.cfm>>. 

This piece indicates that conflict coaching is a "fast emerging technique" used in Alternative Dispute Resolution and argues that "mindfulness" of both the coach and the client is essential to the process. It describes in detail what the author feels "mindfulness" is as well as methods to implement the technique for all involved parties. The article concludes by reiterating how utilizing this technique can improve the conflict coaching experience for everyone.

Noll, Douglas. "Bioethical Mediation: Peacemaking and End of Life Conflicts." [Mediate.com](http://www.mediate.com). Aug. 2004. 23 Aug. 2007 <<http://www.mediate.com/articles/noll13.cfm>>. 

The author feels that bioethical mediation differs from mediation in other types of contexts in several ways: The stakes are high; time is of the essence; walking away without making a decision is usually not an option. The parties' interests can be at odds with one another, even if everyone has the well-being of the patient at heart. At present, most facilitators are hospital-employed ethicists who are neither completely neutral nor well-trained in mediation. In spite of these problems, the author concludes optimistically that "bioethics mediation, although new, is another example of how positive peacemaking is finding its way into our culture, our institutions, and our daily lives."

Page, Norman R. "Dealing with Power Imbalance: Another Stab." Mediate.com. June 2005. 27 Apr. 2007 <<http://www.mediate.com/articles/pageN2.cfm>>. 

This item attempts to address the recourse a mediator has available in order to rectify an imbalance of power during mediation. It also explains that there is not a general consensus in the mediation field as to what the appropriate course of action should be, if any at all, and does so by explaining the research of several mediation experts. The article's author then provides his insight into the imbalance question by illustrating the theory of "enlightened self-interest."

Patterson, Breyer. "New First Step Available for Seniors Wanting to Resolve Conflict." Mediate.com. Mar 2008 <<http://www.mediate.com/articles/instantSenior.cfm>>.  

This is an article that discusses individual "conflict consultation" as a way for seniors to deal with a myriad of conflict situations including health issues, insurance, living-facility conflict, and financial situations, among others. The article introduces Mediate.com's "InstantAssist" services that provide conflict advice to seniors. InstantAssist's consultants even occasionally act as emissaries when a particular situation calls for it. InstantAssist's founder Jum Melamed believes that following the basic mediation process is still necessary, and that "bringing constructive conflict resolution to individuals at the earliest possible time" is the goal of the new program. The website for InstantAssist is <http://www.InstantAssist.com/>.

Porter, Patricia. "Maximizing Effective Participation." Mediate.com. July 2003. 27 Apr. 2007 <<http://www.mediate.com/articles/porterP1.cfm>>. 

This article intends to help the mediator reader maximize effective participation in the mediation process through the understanding of the concept of "varying capacity." It focuses on "party capacity" and how it relates to exercising self-determination by the party in a mediation situation. After attempting to define the phrase, the article also offers insight into identifying "red flags" when dealing with a client that a mediator may suspect has limited capacity. Through the use of an example case study, the article highlights why preplanning for a mediation is so crucial in order to understand the "party capacity."

Rice, Karen. "ElderCare Mediation." Mediate.com. Apr. 2005. 25 Apr. 2007

<<http://www.mediate.com/articles/ricek1.cfm>>.   

This article found on Mediate.com from April 2005 was originally published in *Senior Living Guide* for Winter 2002-2003. It is the first part of a two-part series on mediation, the second part entitled *Family Caregiver Mediation*. The article describes how family relationships are becoming strained because of decisions about how best to care for an elderly family member. The article describes how the mediation process can be advantageous to families in these situations as well as illustrating the difference between mediation and other forms of alternative dispute resolution. It further investigates who mediators are and what groups utilize the mediation process in addition to explaining the emergence of the ElderCare Mediation field.

Rice, Karen. "Family Caregiver Mediation." Mediate.com. Dec. 2004. 25 Apr. 2007

<<http://www.mediate.com/articles/riceK2.cfm>>.   

This piece found on Mediate.com from December 2004 was originally published in *Senior Living Guide* for Spring 2003. It is the sequel to a previous article entitled *ElderCare Mediation*. The article talks about how Family Caregiving is a rapidly increasing responsibility for families, and how this role can cause many problems for family members including stress and conflict. The article traces the path to guardianship that is often taken by caregivers in these situations. The article continues to explain how Family Caregiver Mediation can provide a unique tool for caregivers, and can ultimately result in a much more desirable outcome for all involved parties. The article cites The Center for Social Gerontology's involvement in the family caregiver mediation arena with their Caregiver Mediation Project.

Robson, Rob. "Speed Bumps on the Yellow Brick Road: Using ADR in Healthcare."

Mediate.com. Feb. 2003. 8 Jan. 2008 <<http://www.mediate.com/articles/robson2.cfm>>.



This article discusses the personal observations of the author relating to the use of alternative dispute resolution methods, including mediation, in the Canadian healthcare system. The author argues "there are a number of characteristics of the healthcare system... which tend to generate 'speed bumps' or special challenges that may not always be encountered routinely in other conflict situations." His argument includes the particular challenges for dispute resolution professionals who are also healthcare practitioners, the reluctance of physicians and administrators to participate in ADR, and the lack of involvement of the patient herself, among several others. Examples involving mediation are included.

Voyles, Rick. "Managing an Imbalance of Power." Mediate.com. Oct. 2004. 27 Apr. 2007 <<http://www.mediate.com/articles/voylesR3.cfm>>.  

This item assesses the imbalance of power that can occur during mediation and what techniques a mediator has available to him/her in order to effectively deal with this imbalance. It explains why an imbalance of power at the mediation table is undesirable and that it can be damaging to the parties involved. The article continues by highlighting communication skills such as listening and question-asking, agenda setting, role-play hypotheticals, need exploration, and terminating the mediation all as effective ways the mediator has to help counterbalance the inequitable power dynamic. The article emphasizes that it is not how much power a party has, but does he/she have "enough power for self-determination."

Waldman, Ellen. "Lessons from the Bioethics Field." Mediate.com. July 2003. 17 July 2007 <<http://www.mediate.com/articles/waldmanE1.cfm>>.  

This article is part of a collection on "Capacity to Mediate" posted on Mediate.com that was originally published in the Alternatives Journal in July 2003. The article discusses mediation's history with persons of diminished capacity and claims that the mediation community as a whole has today "reevaluated its earlier exclusionary stance." It discusses approaches mediators use to ensure that the participant in question's interests are adequately represented and gives an anecdote to illustrate the point. The "First Do No Harm" rule is emphasized and examined, and the author also describes surrogate decision-making in bioethics mediation.

Wood, Erica. "Addressing Capacity: What Is the Role of the Mediator?" Mediate.com. July 2003. 23 Oct. 2007 <<http://www.mediate.com/articles/woodE1.cfm>>. 

This is another article that is part of a collection on "Capacity to Mediate" posted on Mediate.com that was originally published in the Alternatives Journal in July 2003. The article discusses capacity and especially capacity outside of the courtroom in the mediation sphere. Suggestions for how mediators should determine and consider the capacity of their clients is described, and common pitfalls are highlighted.

C. ARTICLES IN LAW REVIEWS / MANUALS / OTHER BOOKS

Berland, Valerie E., and Sheila R. Purcell. "Mediation in Probate Cases: The Will to Compromise." ADR Handbook for Judges. Ed. Donna Stienstra and Susan M. Yates. Washington D.C.: American Bar Association Section of Dispute Resolution, 2004. 167-94.



This is a chapter from the ADR Handbook for Judges that discusses mediation in probate cases. It presents to the reader how to plan for an ADR program including program goals, involving all stakeholders in the mediation, consider what outreach and education are necessary, and other ADR program planning aspects. Aspects of selecting cases for an ADR program are also examined such as referral of cases, what the ADR session will actively entail, how to ensure the quality of the program, managing a court ADR program, and conclusions and reflections.

Gottlich, Vicki. "Guardianships and their Alternatives: Legal Services and the Role of the Advocate." Representing Older Persons: An Advocate's Manual. Fretz, B. Washington D.C.: National Citizens Law Center, 1985. 13-27. ♥

This chapter focuses on the "problems inherent in the guardianship systems, the alternatives thereto, and the role of the advocate in preserving the rights of the elderly incapacitated individual." It provides a substantive overview of the problems, a current explanation for what is currently being done to address these problems, and a discussion on alternatives to guardianship that are less restrictive. These include powers of attorney, family consent statutes, representative payees, and end-of life decision-making. The article also helps define what role the attorney of the older person should play in the decision-making process.

“Guardianship.” Policy Study on Alzheimer’s Disease Care. Office of the Maryland Attorney General. Ed. Joseph Curran, Jr. Baltimore, MD: Office of the Maryland Attorney General, 2004. 31-40. 8 Feb. 2008 <<http://www.oag.state.md.us/Healthpol/alzchap3.pdf>>. ♥

This is a lengthy study that discusses Alzheimer’s Disease care and the policy recommendations of the Office of the Maryland Attorney General. In chapter three of the study and specifically part “C. Alternatives to Guardianship,” the study discusses the restrictive nature of guardianship and the other models of dispute resolution in place in Maryland to resolve conflict. The chapter examines pilot elder mediation programs in several states across the country. However, because of the mediation programs in place are relatively new and not much study has been done of the programs, the Office of the Attorney General did not include elder mediation in its recommendations for Alzheimer’s Disease care.

Hartman, Susan D. “Adult Guardianship Mediation.” ADR Handbook for Judges. Ed. Donna Stienstra and Susan M. Yates. Washington D.C.: American Bar Association Section of Dispute Resolution, 2004. 141-65. ♥ 🌟

This is a chapter from the ADR Handbook for Judges that explores adult guardianship mediation. The chapter gives detailed examples and advice of how to plan for an adult guardianship ADR program in the reader’s court. Selecting cases for the ADR program is also another discussed issue including referral information, and determining who should provide the mediation is another issue assessed. Confidentiality, the guardian as litem, the role of the mediator, and the steps of the mediation session are all included in this chapter, as well as other relevant adult guardianship mediation topics.

Hoffmann, Diane E. “Mediating Life and Death Decisions.” Arizona Law Review 36. 1994: 821-877. 8 Feb. 2008 <http://digitalcommons.law.umaryland.edu/fac_pubs/169/>. 📖

This very lengthy article discusses mediating life and death decisions. Topics of importance for this piece are the nature of disputes in life and death decision-making including amongst doctors, patients, family members, and hospital staff; ways in which these disputes are currently handles in the courts; the nature of mediation including its process, third-part norms, and criticisms of mediation; and the application of mediation to life and death decision-making.

Kelly, Elizabeth A. "Mediating Disputes Involving Older Adults and People with Disabilities." Colorado Elder Law Handbook. Eds. Susan Fox Buchanan, and D. Wayne Stewart. Denver, CO: Colorado Bar Association, 2006. 7-1 – 7-16. 

This is a chapter from the 2006 Colorado Elder Law Handbook that discusses dispute mediation involving older adults and people with disabilities. Basic mediation topics are identified and discussed including underlying mediation issues, benefits and barriers, which cases are appropriate for mediation, using a multidisciplinary approach, specialized mediator training, and selecting qualified mediators. Specific mediation topics of older persons and persons with disabilities are also covered such as screening cases, the role of participants, mental incapacity issues, and referral sources. Additional considerations suggested by the author include topics for mediators, legislative efforts, integrating mediated agreements with judicial findings, outcomes in adult guardianship cases, and a bibliography.

"Legal and Ethical Issues: Capacity." The Merck Manual of Geriatrics. 3rd ed. Mark H. Beers, ed. 2000. Merck and Co., Inc. 12 July 2007
<<http://www.merck.com/mrkshared/mmg/sec1/ch14/ch14b.jsp>>. 

This is a section of the Merck Manual of Geriatrics that describes how a "clinical determination of a patient's ability to make decisions about treatment interventions or other health-related matters." It continues to define "decisional capacity," "partial capacity," and "incapacitated patient," three concepts important to mediators in determination of an elder's ability to participate the in decision-making process.

"Legal and Ethical Issues: Informed Consent." The Merck Manual of Geriatrics. 3rd ed. Mark H. Beers, ed. 2000. Merck and Co., Inc. 12 July 2007
<<http://www.merck.com/mrkshared/mmg/sec1/ch14/ch14d.jsp>>. 

This is a section of the Merck Manual of Geriatrics that describes how a "decisionally capable patient's legally binding treatment decision reached voluntarily and based on information about risks, benefits, and alternative treatments gained from discussion with a health care practitioner." It continues to define the concept of "self-determination" and how it applies to older adults in the decision-making process. It also explains potential complications with informed consent when dealing with older adults that could also be applied to forms of elder mediation.

“Legal and Ethical Issues: Long-Term Care.” The Merck Manual of Geriatrics. 3rd ed. Mark H. Beers, ed. 2000. Merck and Co., Inc. 12 July 2007
<<http://www.merck.com/mrkshared/mmg/sec1/ch14/ch14l.jsp>>.  

This is a section of the Merck Manual of Geriatrics that describes problems with long-term care (LTC) facilities that have come to light since the 1980's and 1990's. The section continues to describe in detail the specific situations that the LTC facilities face in trying to provide quality care for its residents, as well as the problems that face residents and family members deciding on LTC facilities.

“Legal and Ethical Issues: Surrogate Decision Making.” The Merck Manual of Geriatrics. 3rd ed. Mark H. Beers, ed. 2000. Merck and Co., Inc. 12 July 2007
<<http://www.merck.com/mrkshared/mmg/sec1/ch14/ch14g.jsp>>.   

This is a section of the Merck Manual of Geriatrics that describes that a surrogate is a “statutorily designated health care decider or an informally identified person, such as a close family member or friend.” The section continues to discuss that elderly patients without close family or friends may receive a “court-appointed guardian.” It goes on to discuss the implications of having a court-appointed guardian.

Morrison, Virginia L. “Heyoka: The Shifting Shape of Dispute Resolution in Health Care.” Georgia State University Law Review 21.4. 2005: 931-964. 

This piece, included in the only Georgia State University Law Review volume dedicated solely to discussions of conflict resolution in health care, reports the statistics from pioneer experiences with early mediation of adverse outcomes. The article discusses the advantage of moving from a power-based system to one with a collaborative approach as well as concerns facing potential mediation participants (such as bioethics and patient safety.) The article also examines the various conflict-resolution models available including health care mediation, and concludes with the assessment that there currently is much innovation in the conflict resolution field of health care.

Radford, Mary F. "Is the Use of Mediation Appropriate in Adult Guardianship Cases?" Stetson Law Review 31.3. Spring 2002. 12 July 2007

<http://www.law.stetson.edu/lawrev/abstracts/PDF/31-3Radford.pdf>.   

A lengthy item exploring whether the use of mediation is appropriate in adult guardianship cases. The article explores various topics in the guardianship mediation sphere such as a mediation overview including a definition, the mediation procedure, and confidentiality and privacy in mediation. The article also gives an overview of guardianship cases and determination of incapacity. As the article continues, incompatibility, lack of protection, and that mediation is grounded in self-determination are all carefully considered as factors concerning the appropriateness of mediation. It goes on to discuss when mediation might be used in adult guardianship cases and gives recommendations for the integration of mediation into adult guardianship cases.

Roca, Robert P. "Determining Decisional Capacity: A Medical Perspective." Fordham Law Review 62.5. Apr. 1994: 1177-1196.    

An article written for the Fordham Law School Law Review that discusses decisional capacity. The article describes the clinical methods used by physicians to determine whether someone has a mental disorder and which factors most compromise decisional capacity in older persons. It also discusses whether a mental disorder will affect a subject's decisional capacity and demonstrates how these topics are applied to certain cases.

Wood, Erica F. "Dispute Resolution and Dementia: Seeking Solutions." Georgia Law Review 35.2. Winter 2001: 785-833.    

The article discusses the rising numbers of elderly Americans with dementia and the implications for society as well as the elderly individual. Common disputes such as bioethical, long-term care, and guardianship issues involving elderly persons are discussed, and mediation is explored as a venue for dispute resolution. The article specifically focuses on using mediation as a tool when a party with dementia is involved. The article highlights that capacity issues, accommodations for the party in question, confidentiality issues, and mediator neutrality are all issues that need to be considered carefully.

Wood, Erica F. "Elder Abuse and Mediation: Exploratory Studies in America, Britain, and Europe." Rev. of Elder Abuse and Mediation: Exploratory Studies in America, Britain, and Europe by Yvonne Craig. Journal of Elder Abuse & Neglect 1998: 169. ★

This piece is a book review of Yvonne Craig's book Elder Abuse and Mediation: Exploratory Studies in America, Britain, and Europe written by Erica Wood. The review begins with a basic description of mediation and how it is being used to resolve disputes of the elderly. Wood manages to sort through the book in a logical fashion and clearly details the book's intent, the three main substantive topics, and the drawbacks of Craig's publication.

D. ARTICLES IN NEWSPAPERS / OTHER NEWS SOURCES

“A New Approach to Caring for the Elderly.” Video. 28 June 2007. ABC News Online. 23 Aug. 2007 <<http://abcnews.go.com/Video/playerIndex?id=3328372>>. ♥ 📺 👥

This is an online video posting by ABC News from June 28, 2007 that discusses elder-care issues and end-of-life decision-making. The journalist in the video explains that conflict often can arise as a result of these situations involving older family members, and then presents elder mediation as a new option for these family conflicts. Through interviews with several families and with a brief example of an elder mediation, the viewer gets a sense that elder mediation might be a better option than traditional dispute resolution methods.

Bierma, Nathan. “Mediators Dealing with More Elder-Care Issues.” Chicago Tribune 17 Mar. 2004: 5. ♥ 👥 🚗 ★

This newspaper column for the Chicago Tribune from March 2004 discusses the increase in mediation cases that involve older persons and their families. With an introduction of an excerpt from The Center for Social Gerontology’s Adult Guardianship Mediation: An Introduction video that describes the conflict that can arise in families trying to make end-of-life decisions for an older family member. The benefits of elder mediation for families and the older person are also considered in the article as well as issues of competency, autonomy, and the growth of the elder care mediation field.

Jackson, Edna. "National Aging, Law, and Mediation Professionals Meet in Georgia to Discuss Ways of Solving Disputes Involving Elders." Georgia Division of Aging Services Online. 14 Mar. 2006. 21 Dec. 2007
<<http://www.dhr.state.ga.us/portal/site/DHR/menuitem.3d43c0fad7b3111b50c8798dd03036a0/?vgnextoid=bc511f3a237f9010VgnVCM100000bf01010aRCRD&vgnnextchannel=d e6833fd836b9010VgnVCM100000bf01010aRCRD>>.   

This news release from the Georgia Department of Human Resources' Division of Aging Services describes a national conference in Georgia that "resulted in the creation of a new organization" that could help with the rising number of disputes between family members involving elder issues. The article explains that the organization came out of a two-day meeting held in February 2006 called "Assessing Elder Mediation Today and Developing Guidelines for Future Directions: A Mini-Summit." The group's purpose and mission, key focus areas for the organization, and member input are also included within the article, as well as contact for The Center for Social Gerontology, Inc.

Jackson, Maggie. "Mediators Ease Decisions on Elders." The Boston Globe. 3 Dec. 2006
<http://www.boston.com/jobs/college/articles/2006/12/01/mediators_ease_decisions_on_elders/>. 

This is a newspaper article that presents elder mediation as an option for older persons and their families to help solve difficult aging issues. It briefly describes how elder mediation works and what a mediator's role is. Through quotes with people who had experienced difficult family situations and had participated in mediation, the article shows that mediation can be a positive tool.

Johnson, Carla K. "Expect Tensions When Parents Need Care." Arizona Daily Star 14 Jan. 2007.   

This newspaper column, through interviews with siblings in the Chicago over the care of their mother, illustrates the growing tensions arising in families due to disagreements about care for an older family member. The article gives advice from experts for others facing a similar situation by encouraging open communication and continues to present the growing field of elder mediation as an option.

Lauricella, Tom. "Mediating Elder-Care Disputes." The Wall Street Journal 2 Mar. 2008. 13 Mar. 2008 <<http://online.wsj.com/public/article/SB120441279448005723.html>>. ♥ 👥

An article written for The Wall Street Journal that discusses the topic of mediating elder-care disputes. It explains that decision-making as a family is difficult when it comes to aging family members, especially when there is family tension to begin with. It gives the basic goals of elder-care mediation, and discusses how tensions can be defused in the mediation environment. How to find a mediator is also included in the article.

"Love, Care and the Inevitable Arguments: Mediators Can Provide a Welcome Rational Approach to Realities of Elder Care." World News Tonight with Charles Gibson. ABC Television Network. ABC, New York. 28 June 2007. <<http://www.abcnews.go.com/WN/LifeStages/story?id=3323300>>. 👥 ♥ 🚗

This column's author presents elder mediation as a new option "for families navigating the complex decisions and emotions surrounding elder care." It demonstrates one particular dispute of the Remake family of Baltimore and illustrates the advantages the family felt they experienced from their elder mediation experience.

"Mediation Resources for Caregivers." CBS Evening News with Katie Couric. CBS Television Network. CBS, New York. 20 Feb. 2007. <<http://www.cbsnews.com/stories/2007/02/19/fyi/main2492333.shtml>>. ♥ 👥 🚗

This is a news segment from the CBS news organization that describes an early 2007 CBS poll that found that one in five Americans has had the responsibility of caring for an aging parent by taking them into their homes or paying for their care. The news segment acknowledges the concerns and disputes that arise from these family caregiver situations and presents Family Mediation as an option for family caregivers. Gives a list of caregiver mediation resources.

"Mediators Save Caregivers' Relationships." CBS Evening News. CBS Television Network. CBS, New York. 20 Feb. 2007. <<http://www.cbsnews.com/stories/2007/02/20/eveningnews/main2495553.shtml>>. 👥 🚗

This is a news segment from the CBS news organization that describes the experiences of one family in which the adult siblings are taking care of their aging parents, one who has Parkinson's and the other who has Alzheimer's. The siblings had a difficult communicating, and so a mediator was called in. Describes the benefits of this family's mediation experience.

Powell, Robert. "When All Else Fails: Seeking Guardianship of Parent is a Difficult Journey." MarketWatch 11 Oct. 2006. 7 Mar. 2008
<<http://www.marketwatch.com/news/story/negotiating-minefields-seeking-guardianship-parent/story.aspx?guid=%7BE9B242A1-B2A9-4D2C-9179-555C3F1968C5%7D>>. ♥ 

This news article discusses the undesirable situation of adult guardianship and offers suggestions to maximize an elder's autonomy and family harmony. The piece encourages the reader with an aging parent to seek alternative forms of decision-making, and identifies that communication among siblings is key to avoiding the guardianship process. Mediation is suggested as a venue for communication and is described. Autonomy issues in guardianship are also explored.

Schwartz, John. "For End of Life, Hospital Pairs Ethics and Medicine." New York Times 4 July 2005. 23 Aug. 2007
<<http://www.nytimes.com/2005/07/04/nyregion/04mediate.html?ex=1188014400&en=499ad2a3676d49ae&ei=5070>>. 

This newspaper article for the New York Times discusses The Montefiore Medical Center in the Bronx and their goal of giving bioethicists "a central role in mediating end-of-life decisions among doctors, nurses, patients, and family members." The article examines a particular case of one client with emphysema receiving life-sustaining medical procedures.

Siegel, Andrea F. "Mediators from Across the State Learn Ways to Settle Conflicts Related to Aging." The Sun in Anne Arundel. 14 Dec. 2005: 1+.  ♥

This is a newspaper column that offers a basic introduction into the mediation of senior issues. It explores the various issues that can be mediated including contentious guardianship issues and why this format for dispute resolution can be positive for families. The article also illustrates why the court system can be ill equipped to handle these sensitive guardianship issues as well as how the older person's best interest can be ignored in the traditional venues for conflict.

Silverman, Rachel Emma. "Latest Custody Battle: Who Gets Mom." The Wall Street Journal.
17 Aug. 2006. 7 Mar. 2008
<<http://online.wsj.com/article/SB115577005459137719.html?mod=djemTMB>>.

This newspaper article written for The Wall Street Journal remarks that as the population ages, lawyers are seeing a rise in adult guardianship Cases. The article also discusses laws designed to curb the trend of "parent snatching." Through the example given of two siblings fighting over custody of their mother, the article shows that demographic shifts are leading to more custody battles. States are therefore revising guardianship laws that can limit guardian authority and provide more court oversight. The article also mentions other options such as creating financial power-of-attorney documents, durable power-of-attorney documents, and sitting down to talk with family members.

III. BOOKS / MANUALS / REPORTS

Aging Transition Workgroup (ATW) Report: Executive Summary. Annapolis, MD: Maryland Office of the Governor, Feb. 2007. 8 Feb. 2008
<<http://www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000113/003000/003325/unrestricted/20070097e.pdf>>.  

This document is a draft report that discusses the changing atmosphere for seniors in Maryland, and what changes should be anticipated by the state in order to manage it most effectively. The report was commissioned in order to “create and embrace a new vision and a strategic plan of action that will redefine the way we advocate for, support, design, fund, and deliver services to... older adults.” End-of-life planning and decision making for the aged is covered as well as mediation and other decision-making services for seniors.

Assessment of Older Adults with Diminished Capacity: A Handbook for Lawyers. Washington DC: American Bar Association and the American Psychological Association, 2005. 8 Feb. 2008 <http://www.apa.org/pi/aging/diminished_capacity_part1.pdf>. 

This handbook attempts to offer ideas for “effective practices and makes suggestions for attorneys who wish to balance the competing goals of autonomy and protection as they confront the challenges of working with older adults with diminished capacity.” It examines such topics as legal standards and clinical models of capacity, signs of diminished capacity, techniques lawyers can use to enhance client capacity, and if the client’s ability to consent to referral is unclear, among others.

Barinaga-Burch, Saily, Lauren Barrit Lisi, John L. Laster, and Diana C. Lehman.

Guardianship and Alternatives: A Guide to Personal, Health Care, and Financial Management Options. Ann Arbor, MI: The Center for Social Gerontology, Inc., 1995.

[Available for \$38 through TCSG at <http://www.tcsg.org/public.htm>].     



A thorough handbook developed by The Center for Social Gerontology that serves to guide the reader through personal, health care, and financial management options that face older persons in the aging process. Many topics are discussed in detail including state intervention, alternatives to guardianship, guardianship, and end-of-life decision-making. The extensive section on alternatives to guardianship deals with such issues as money management alternatives, joint property arrangements, durable powers of attorney, trusts, and representative payeeships. Intended for both professionals and lay people with interest in such topics.

Bertschler, Patricia, and Laurette Cocklin. Truce! Using Elder Mediation to Resolve Conflict among Families, Seniors, and Organizations. Independence, OH: Northcoast Conflict Solutions, LLC, 2004.  

This handbook discusses elder mediation as a method of family conflict resolution, and distinguishes it from counseling and other forms of dispute-resolution. Situations that are appropriate for mediation are examined through the use of numerous case studies. Issues specific to elders are also described as well as the elder mediation process. Additional caregiver resources are also included as well as a thorough appendix with practical elder information.

Craig, Yvonne. Elder Abuse and Mediation: Exploratory Studies in America, Britain, and Europe. Aldershot, Hampshire, UK: Avebury Publishers, 1997. (Not Available in the TCSG library- must be ordered for \$99.95. See Amazon at <http://www.amazon.ca/Elder-Abuse-Mediation-Yvonne-Craig/dp/1859726151>.) ♥ ☆

This book focuses on the controversial potential of mediation techniques to contribute to the prevention of elder abuse in early stages. Elder Abuse and Mediation suggests that mediation may be a suitable tool to catch aggravated conflict before it becomes a full-blown problem. Separated into three parts, the book traces academic theories behind elder abuse and mediation and offers a comparison, examines the elder rights movement and senior mediation projects in the United States, and discusses the development of the British Elder Mediation Project (EMP.) The book has been criticized by several sources for using too broad of a definition for both elder abuse and mediation, and for suggesting an interrelated link between elder abuse and mediation when many mediation experts feel the use of mediation to prevent or handle an abusive situation is inappropriate because potential further harm done to the abused individual.

Creative Conflict Management in Healthcare: Final Report. Vancouver, BC, CAN: Simon Fraser University, Mediate.Calm, and Health Care Mediations, Inc., Mar. 24-26, 2004. 10 Sept. 2007 <http://www.healthdialogue.org/dialogue/dialogue_healthcare.pdf>. 🖨️

This final report of the “Creative Conflict Management in Healthcare” conference held on March 24-26, 2004 in Vancouver, BC, Canada, and sponsored in part by Health Canada covers the conference agenda, session overviews, concurrent sessions, participant observations, and identified next steps in developing a conflict management community.

Dize, Virginia, and Mark Miller. Uses of Mediation in Assisted Living- and Some Advice Thrown In: An Ombudsman Training Module. Washington, D.C.: National Association of State Units on Aging, the National Long Term Care Ombudsman Resource Center, and the National Citizens Coalition for Nursing Home Reform, 2001. 🇺🇸 🚗

This manual designed by the National Association of State Units on Aging illustrates how to set up an ombudsman training workshop. The workshop would aim to “enrich the ombudsman’s understanding of assisted living mediation strategies and appreciation for the critical decisions.” Learning objectives for the workshop as laid out in the manual include gaining information about the ombudsman’s role in assisted living conflict resolution, appreciating specific difficulties, gaining insight about various forms of mediation, whether cases are appropriate for mediation, and how to apply mediation as well, as other topics and issues.

Dubler, Nancy Neveloff, and Carol B. Liebman. Bioethics Mediation: A Guide to Shaping Shared Solutions. New York: United Hospital Fund, 2004.  

This book's target audience of hospital-employed mediators explores the world of mediating bioethical issues in a hospital setting. Often considered the premiere book in the field, it begins with a basic explanation of hospital mediation and continues to promote a practical guide to bioethics mediation. Through role plays and case analyses, the book illustrates that the benefits of bioethical mediation can lead to more calm, efficient, time-saving, and thoughtful decisions despite the ethical pitfalls that can complicate best care practice.

Frolik, Lawrence A. The Law of Later-Life Health Care and Decision Making. Washington D.C.: American Bar Association Publishing, 2006. (Not Available in the TCSG library- must be ordered for \$99.95. See Amazon at <http://www.amazon.com/Later-Life-Health-Care-Decision-Making/dp/1590317599>.)      

This book provides a “comprehensive description of the manner in which the law regulates and reacts to health care and personal decision making for the elderly.” Designed to help professional and lay readers understand the legal doctrine, the book covers such topics as paying for health care, long-term care housing options, paying for long-term care, legal implication of mental incapacity including guardianship issues, and end-of-life decision-making. Intended to serve as a jumping off point for further research.

Guidelines for Programs Seeking Certification Pursuant to Rule 9 of the Supreme Court's Rules Implementing Mediation in Matters Before the Clerk of Superior Court: Adult Guardianship and Estate Mediation Certification Training. Raleigh, NC: NC Dispute Resolution Commission, 2006. 14 Dec. 2007
<http://www.nccourts.org/Courts/CRS/Councils/DRC/Documents/guidelines_guardian806.doc>.  

These guidelines enacted by the North Carolina Dispute Resolution Commission provide standards for the training of adult guardianship and estate mediators. It is an extension designed to amplify Rules 8 and 9 of *The Rules Implementing Mediation in Matters Before the Clerk of Superior Court*. Included within the text are time frames for the training agenda, quality control issues, participant numbers, a detailed section about the nature of training, quality of faculty, and a section designed to focus on North Carolina. Also included are the responsibility of trainers to update the commission, advertising regulations, and information about supplemental materials.

Hafemeister, Thomas L., and Paula L. Hannaford. Resolving Disputes over Life-Sustaining Treatment. Williamsburg, VA: National Center for State Courts, 1996. 📖

This book describes the conflict that can arise between providers and parents over continuation of life-sustaining treatment that the “medical team deems medically inappropriate or futile.” The book discusses the “application of the first legislatively approved extrajudicial due-process mechanism for resolving disputes over end-of-life treatment” and illustrates the process through an in-depth case study. It concludes with recommendations for guidelines for future programs designed to resolve conflict over life-sustaining treatments.

Hartman, Susan, Penelope A. Hommel, and Susan Butterwick. Adult Guardianship Mediation Manual. Ann Arbor, MI: The Center for Social Gerontology, Inc, The Retirement Research Foundation and The William and Flora Hewlett Foundation, 2002. [Available for \$75 through TCSG at <http://www.tcsg.org/public.htm>]. ❤️ 🔧 🔄 🤝 📣 🧠

For mediators, courts, attorneys, aging and adult service workers, this state-of-the-art and highly acclaimed manual is unique in the developing field of adult guardianship mediation. It is a comprehensive, three-module manual authored by Susan Hartman for TCSG. Module One provides guidance for setting up and operating a program. Module Three is a complete practice manual, describing guardianship law and process, and mediation skills and techniques; it includes role of attorneys and guardians *ad litem*, balance of power and confidentiality issues. Module Four provides an annotated bibliography, and guides readers to additional resources. (Note: Module Two which gave information for mediator training is no longer a part of the Manual.)

Healthcare Due Process Protocol: Final Report. Washington D.C.: American Arbitration Association, American Bar Association, American Medical Association, and the Commission on Health Care Dispute Resolution, 1998. 8 Feb. 2008
<<http://www.adr.org/sp.asp?id=28633>>.

This is a document that summarizes the recommendations of the Commission on Health Care Dispute Resolution formed from leading associations involved in alternative dispute resolution, law, and medicine. The document seeks to provide guidelines and protocol on the “appropriate use of alternative dispute resolution (ADR) in resolving disputes in the private managed health care environment.” Activities of the Commission are also included with their recommendations in the report.

Health in Handbook: A Guide to Medicare Rights and Health in Pennsylvania. Pittsburg, PA: Quality Insights of Pennsylvania, 2007. 13 Nov. 2007
<<http://nova.pasenategop.com/brochures/health-in-handbook.pdf>>. 

This handbook was prepared by Quality Insights of Pennsylvania, a Medicare Quality Improvement organization. Included within the handbook is a variety of information about Medicare and rights of Medicare patients. Everything from a description of Quality Insights to a list of patient rights to Medicare and MA Plans to Medicare prescription drug benefits are discussed. Also included are important contact information for Medicare information, information about Quality Insights' other programs, and tips for staying healthy.

Hommel, Penelope A., Susan J. Butterwick, and Ingo Keilitz. Evaluating Mediation as a Means of Resolving Adult Guardianship Cases. Ann Arbor, MI: The Center for Social Gerontology, Inc., 2001. 8 Feb. 2008 <http://www.tcsg.org/mediation/SJI_01.pdf>.



This report describes an adult guardianship mediation study carried out in Ohio, Florida, Wisconsin, and Oklahoma by The Center for Social Gerontology. The study begins with a history and background and is followed by a detailed description of the study's methodology. Guardianship programs at the four sites are examined, and a summary of results of a survey of participants in two counties. Among the conclusions drawn from the study are that mediation is successful when used, there is a limited scope of guardianship programs, and that there is structural and organizational instability.

Hunt, L. Rush, Patricia Day, and Michael McCauley. Understanding Elder Law: Issues in Estate Planning, Medicaid, and Long-Term Care Benefits. Washington D.C.: American Bar Association Publishing, 2002. (Not Available in the TCSG library- must be ordered for \$119.95. See the ABA at <http://www.abanet.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=5150288>.)    

This is a handbook by the American Bar Association for legal professionals with elderly clients. Focus includes determining who is represented, especially when the client's family is involved, and competency of the represented individual. Other topics discussed include advanced directives and other end-of-life planning, an overview of major federal programs such as Social Security and veteran's benefits, information about Medicaid and Medicaid eligibility, retirement planning, and tax and tax planning issues. A diskette with ten forms such as durable power of attorney and a living will directive is included.

Judicial Determination of Capacity of Older Adults in Guardianship Proceedings.

Washington DC: American Bar Association and the American Psychological Association, 2006. 8 Feb. 2008 <http://www.abanet.org/aging/docs/judges_book_5-24.pdf>.  

This is a handbook that's main objective is to provide a "framework that judges may find useful and effective in capacity determination." The intended goals include giving the background for guardianships in the U.S., providing practical tools to judges for capacity determination, addressing a variety of judges' needs, providing resources helpful in identifying "less restrictive alternatives" to guardianship including mediation and limited guardianship, calling attention to "temporary and reversible causes of impairment," and assisting courts in "enhancing the capacity of older adults."

Karp, Naomi, and Erica F. Wood. Building Coalitions in Aging, Disability and Dispute Resolution. Washington D.C.: ABA Commission on Legal Problems of the Elderly, Aug. 2000. 28 Aug. 2007 <<http://www.mediate.com/articles/aba1.cfm>>.     

This handbook is "a 'tool box' for forging state and regional coalitions to integrate conflict resolution in the aging and disability fields" developed by the Commission on Legal Problems of the Elderly of the American Bar Association. It discusses four projects that could serve as models for other regions and identifies methods for developing a successful model. A thorough appendix includes many useful resources such as "brochures, conference agendas, training materials, and local press reports from the four projects."

Karp, Naomi, and Erica F. Wood. Keep Talking, Keep Listening: Mediating Nursing Home Care Conflicts. Washington D.C.: American Bar Association, 1997. [Available through the ABA for \$18.95 at

<http://www.abanet.org/aging/publications/publicationslistorder.shtml>].   

This is a publication by the American Bar Association (ABA) that reports on a landmark three-year ABA Commission on Law & Aging project designed to answer whether mediation is a valuable tool in addressing nursing home care conflict, how the concept of mediation should be adapted in long-term care, if mediation can help to give a voice to vulnerable residents and their families, and if mediation can ultimately improve the quality of the older person's life. Nursing home settings, disputes in nursing homes, ADR techniques in nursing homes, and detailed description as well as outcomes and conclusions of the project are covered material.

Karp, Naomi, and Erica F. Wood. Resolution of Consumer Disputes in Managed Care: Insights from an Interdisciplinary Roundtable- Exploratory Recommendations, Commentary and Materials. Washington D.C.: ABA Commission on Legal Problems of the Elderly, Sept. 1997. [Available through the ABA for \$18.95 at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].  

This report by the Commission on Legal Problems of the Elderly of the American Bar Association discusses recommendations of three working groups from the April 1997 “roundtable on the resolution of consumer disputes in managed care.” Medicare and Medicaid conflicts as well as those under private commercial care were discussed and evaluated. Processes to strengthen conflict resolution techniques and especially alternative dispute resolution were analyzed and recommendations are given in the report.

Karp, Naomi, and Erica F. Wood. Understanding Health Plan Dispute Resolution Practices: Summary of Findings. Washington D.C.: ABA Commission on Legal Problems of the Elderly, Apr. 2000. [Available through the ABA for \$24.95 at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].  

This report discusses a summary of the results of an 18-month study conducted by the Commission on Legal Problems of the Elderly of the American Bar Association in 1999/2000. A synopsis of the report, this booklet “traces the dispute resolution process through the frontline of customer service and the levels of internal appeal” in detail. “Promising Practices” are included and evaluated and suggestions for future programs are also listed.

Kritek, Phyllis. Negotiating at an Uneven Table: A Practical Approach to Working with Difference and Diversity. San Francisco, CA: Jossey Bass, 1994. [Not Available in the TCSG library- must be ordered for \$44.00. See Amazon.com at <http://www.amazon.com/Negotiating-Uneven-Table-Developing-Resolving/dp/0787959375>.] 

A book that discusses “negotiating conflicts in situations where some participants are at a disadvantage which others do not acknowledge.” Strategic advice is offered for the disadvantaged participants, and several methods for recognizing negotiating situations that are not equal for participants are examined. Broken into three parts, the book focuses on the source of unequal conflict, reviews the traditional approaches to negotiating in an unequal situation, and also proposes a number of “ways of being” that help to “constructively approach uneven negotiating tables.”

Lisi, Lauren Barritt, and Anne Burns. Innovative Test of Alternative Dispute Resolution to Address Serious Concerns about Court Imposition of Guardianship over Adults. Ann Arbor, MI: The Center for Social Gerontology, Inc., 1993. [Available for \$7.50 through TCSG at <http://www.tcsg.org/public.htm>]. ♥

A final report on the Guardianship and Conservatorship Mediation Project convened by The Center for Social Gerontology along with the Washtenaw County, Michigan Probate Court and the University of Michigan Turner Geriatric Clinic in response to the increase in guardianships, problems in the system, and the need for alternative dispute resolution. The overriding goal of the guardianship mediation project was to “test an alternative model of dispute resolution in adult guardianship cases that could be replicated by courts in Michigan and the nation.” A detailed discussion of finding and recommendations is included as well as an extensive appendix.

Maebius, Jeb B., Jr. Use of Mediation in Contested Probate Matters. San Antonio, TX: The San Antonio Young Lawyers Association, Mar. 1996. 💰

This document covers several issues in regard to mediation of probate disputes. It claims that the need for mediation in this area is still great and there is still a duty for ADR professionals, attorneys, and courts to suggest alternatives to litigation. Suggestions for the streamlining of the probate mediation process are offered including “good faith effort” agreements, considering alternatives to adult guardianship, refining the role of trust officers and public accountants.

Maebius, Jeb B., Jr. Use of Mediation in Contested Probate Matters: Addendum. San Antonio, TX: The San Antonio Young Lawyers Association, Sept. 1994. 💰

This is a follow-up document to Jeb B. Maebius Jr.’s Use of Mediation in Contested Probate Matters report for the San Antonio Young Lawyers Association. Article provides background for the article including a history of mediation and other alternative dispute resolution techniques and the mediation process.

Marcus, Leonard, et al. Renegotiating Health Care: Resolving Conflict to Build Collaboration. Hoboken, NJ: Jossey-Bass Publishers, 1995. [Not Available in the TCSG library- must be ordered for \$48.00. See Amazon at <http://www.amazon.com/Renegotiating-Health-Care-Resolving-Collaboration/dp/0787950211>]. 🚗 🤝

This book points out the incongruity of health care work and that high volume and “brief though intense meetings of great consequence typify the culture of health care negotiation”. Separated into three substantive sections, Renegotiating Health Care deals with “topics of interest-based negotiation (IBN), mediation, and conflict resolution as they apply to health care;” includes “four essays that reflect the experience and practice of four individuals who have applied ADR theory and practice in their specific areas of expertise: public health and policy, management, nursing, and medicine;” and also includes an “intriguing series of stories that intermingle with all chapters and that serve to illustrate some current problems and potential solutions in health care.”

Mayer, Bernard S. Beyond Neutrality. San Francisco: John Wiley & Sons, Inc., 2004. ♥

In this book, the author poses tough questions to practitioners about alternative dispute resolution. The book is broken into two sections. Part One involves “the crisis” of mediation and why it is underutilized in society. Part Two discusses a pragmatic response “from resolution to engagement,” or aspects that can promote, streamline, and set quality standards for mediation practice. Advocates and advocacy in mediation is also discussed, and this might have some implication for persons interested in elder care mediation.

McCann-Beranger, Judy. Report of the Professional Development Committee: October 2007. Waterloo, ON: Family Mediation Canada, 2007. 21 Dec. 2007
<http://www.fmc.ca/pdf/agm_2007/2007_Report_Education_Committee.pdf>. 🧑🧑🧑

This report is a short summary of the activities of the Family Mediation Canada (FMC) organization for the 2006-2007 period. Their stated mission for the period was to “Offer and promote professional development opportunities” and “to provide a restorative and preventative function to people through mediation.” Educational opportunities through partnering with universities are listed in the report as well as FMC’s training opportunities. The report concludes with a list of programs that the Professional Development Committee wishes to offer.

“Mediation.” National Probate Court Standards. Williamsburg, VA: The Commission on National Probate Court Standards, 2001. 21 Mar. 2008
<http://www.probatect.org/ohioprobatecourts/pdf/national_probate_standards.pdf>.



This document is a complete set of standards proposed for Probate Court Systems all across the United States by the Commission on National Probate Court Standards. Within the document is Section 2.5.1 entitled “Mediation.” The standards claim that Probate Court Systems should refer cases to mediation when appropriate, but also be concerned with issues of capacity to mediation.

Mediation: A New Option for Medicare Beneficiaries to Resolve Complaints Filed through a QIO. Baltimore, MD: Centers for Medicare & Medicaid Services, 2005. 7 Sept. 2007
<<http://www.cms.hhs.gov/BeneComplaintRespProg/Downloads/3a.pdf>>. 

This piece provides background information about healthcare mediation as the new option to resolve a quality of care complaint under Medicare. It discusses what kinds of cases are appropriate for mediation, and how a “Quality Improvement Organization” will determine what cases are sent to mediation. It also talks about patient satisfaction with the program and who will be involved in the mediation situation.

Mediation Resource Packet for Physicians / Providers. Easton, MD: Delmarva Foundation and the Centers for Medicare & Medicaid Services (CMS), Nov. 2003. 14 Dec. 2007
<http://www.delmarvafoundation.org/consumers/medicare/documents/Mediation_resource_packet.pdf>.     

This is a resource packet that provides information about mediation to physicians and other health care providers. It begins with a general description of the nature of mediation and how it differs from arbitration. Specialization regarding mediation in healthcare complaints follows including information about collaborative problem solving, time and resources, participant satisfaction, relation to internal grievance process, and what cases may be appropriate for mediation. An extensive frequently asked questions section is also covered in the document.

Medicare Mediation Resource Packet. Tampa, FL: Florida Medical Quality Assurance, Inc. and the Centers for Medicare & Medicaid Services (CMS), July 2003. 14 Dec. 2007 <http://www.fmqai.com/Professionals-Providers/CaseReview/pdf/FMQAI_FINAL.pdf>.



This document introduces and explains mediation in relation to Medicare. The document explains the basic nature of mediation and continues to discuss the potential effects and advantages that mediation can have in healthcare complaints. Frequently asked questions are also included.

Miller, Mark C. Long-Term Care Ombudsman Program: Ombudsman Talk about Guardianship. Washington, D.C.: National Association of State units on Aging, the National Long-Term Care Ombudsman Resource Center, and the National Citizen's Coalition for Nursing Home Reform, Feb. 2004. 2 Nov. 2007

<http://www.nasua.org/pdf/ombudsmen_talk_about_guardianship.pdf>.  

This piece is a report that discusses guardianship from the perspective of a state long-term care ombudsman. Many aspects of guardianship are explored in this piece, including a brief background of ombudsman responsibility in regard to guardianship, basic definitions of guardianship terms, a discussion of NASUA teleconferences. The highlights from the teleconferences are listed in detail such as the current state of affairs, issues identification, addressing complaints about guardianship, guidelines for handling complaints involving guardians, and successful systems strategies for addressing guardianship issues. Guardianship mediation is mentioned throughout the text as a positive alternative dispute resolution process, and some program details are also included.

Neighborhood Dispute Resolution: Helping Seniors – Seniors Helping. Washington, D.C.: American Association of Retired People, 1988. [Available for free through the AARP by writing to: AARP Fulfillment, 1909 K Street N.W., Washington, DC 20049. Reference pamphlet # D13068].   

This document discusses the rise of alternative dispute resolution methods in response to the increase and continued expected increase of litigation in the American judicial system. The variations in ADR processes are evaluated as well as the similarities including the common trait of all ADR techniques, facilitated communication. ADR program goals are listed and explained, and focuses on ADR techniques specifically relating to older persons in society.

Nussbaum, John F., Loretta L. Pecchioni, James D. Robinson, and Teresa L. Thompson. Communication and Aging. 2nd ed. Mahwah, NJ: Lawrence Erlbaum Associates, Inc., 2000. 23 Oct. 2007.  

This book, available entirely online, emphasizes a “life-span approach toward understanding the social interaction that occurs during later life” and whose purpose is to “help people understand how important their communicative relationships are and how important they remain across the life span.” The book is divided into fourteen chapters with an extensive coverage of each topic. Topics include communication and aging, attitudes and ageism, mass communication theory and media portrayals of elderly people, aging and the family, and several other topics.

Quinn, Mary Jo. Guardianships of Adults: Achieving Justice, Autonomy, and Safety. New York: Springer Publishing Co., 2005. [Not Available in the TCSG library- must be ordered for \$50.00. See Amazon at <http://www.amazon.com/Guardianships-Adults-Achieving-Autonomy-Springer/dp/0826126847>].   

This is a book on guardianship designed for community health and social service practitioners that work with older adults with a diminished capacity. Key topics of the text include the current and evolving criteria that underlay guardianships, kinds of guardianships and the role they serve, the legal process of guardianship, the role of the people in the courtroom as well as the role of the community practitioner in the further development of the guardianship process, and alternatives to guardianship. Many case studies are given.

Results and Recommendations from Self Assessment Meeting- Adult Guardianship Mediation: Essentials for Success. Ann Arbor, MI: The Center for Social Gerontology, Inc., 1999.    

This article discusses excerpts from a meeting convened by The Center for Social Gerontology, Inc. on February 4-5, 1999 in order to explore with participants what “has and has not worked in their programs, and to use this information to further the movement of adult guardianship mediation into the mainstream of legal, social service, and mediation practice.” The article is broken into four sections: an introduction, a section for questions and introductions of participants, a standards section for starting a mediation program, and standards for operating a successful mediation program.

Sabatino, Charles P., and Rebecca C. Morgan. Ethical Issues in Elder Law. Washington DC: National Aging and Law Conference, 2006. 8 Feb. 2008 <<http://www.aarp-foundation.org/Friday/Workshops/EthicalIssues/Handout1.pdf>>. ♥ 🧑🧑🧑

This article highlights the ethical issues that face elder law mediators and elder law mediation participants and explains them in depth. It also gives *Selected Model Rules* from the *ABA Model Rules of Professional Conduct* from 2004 in order to give guidance for how mediators should react to and handle the ethical problems that might arise in an elder law mediation case.

Shuckrow, Alan T. "Mediation in Guardianship Cases: An Option for Pennsylvania-Independent Study." JD thesis. University of Pittsburgh, 1994. ♥

This is an Independent Study prepared by a student of the University of Pittsburgh in 1994 that examines mediation as an option in guardianship cases in Pennsylvania. The paper identifies the extremely restrictive nature of guardianship and presents a need for an effective alternative. Part One of the paper explains the need for mediation and the problems with guardianship in detail, and Part Two examines the guardianship mediation method. Part Three describes The Center for Social Gerontology (TCSG)'s groundbreaking Guardianship Mediation Project, and Part Four will assess the "feasibility of a similar mediation program... in Pennsylvania." Finally, Part Five sets forth recommendations for a Pennsylvania program.

Stiegel, Lori A. Alternatives to Guardianship: Substantive Training Materials for Professionals Working with the Elderly and Persons with Disabilities. Washington DC: ABA Commission on Legal Problems of the Elderly, and ABA Commission on Mental and Physical Disability Law, 1992. [Available through the ABA for \$28 at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>]. ♥ ✂ ⚙ ☎ 🔊

This manual accompanies a training module developed by the Commission of Legal Problems of the Elderly that's purpose is to "educate professionals and advocates who work with older persons and persons with disabilities about the wide range of alternatives to guardianship." The manual "surveys these various legal tools and social services that may delay or avoid imposition of guardianship by enhancing or maintaining individual autonomy." The manual supplements both state training events and intends to set guidelines for the development of future modules.

Thornton, James E., and Earl R. Winkler, eds. Ethics and Aging: The Right to Live, the Right to Die. Vancouver: The University of British Columbia Press, 1998.  

This book discusses ethical situations involving older persons and the aging process in general. Many ethical topics are covered, but issues of self-determination, civil liberties, and the “right to participate” are most relevant to a discussion of elder mediation and other alternative dispute resolution methods.

Wood, Erica. Stop! You’re Both Right: A Guide for Dispute Resolution Programs in Serving Older Americans. Washington D.C.: American Association of Retired Persons, 1995.



This guide accompanies a video and brochure of the same name. The manual covers a “background on aging issues for practicing mediators” and “includes descriptions of model projects from across the country, outreach ideas, and resources.” New developments in the field are also covered, and an extensive appendices is included that lists organizational resources, state units on aging, funding sources, aging publications, and other materials.

Wood, Erica F., and Jeanne Dooley. Targeting Disability Needs: A Guide to the Americans with Disabilities Act for Dispute Resolution Programs. Washington D.C.: American Association for Retired People, 1994. [Available through the ABA for \$10 at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].   

This is one of the American Bar Association’s Commission on Law & Aging ‘s publications that discusses Americans with disabilities and aging persons and how the 1990 Americans with Disabilities Act (ADA) changed services for these demographic groups. Included in the publication are an analysis of the ADA and ADR methods, an overview of the ADA in general, the resolution of ADA disputes, understanding the range of disabilities, making dispute resolution programs accessible, getting help, and organizational resources.

Wood, Erica F., and Prudence B. Kestner. Mediation: The Coming of Age- A Mediator's Guide in Serving the Elderly. 2nd ed. Washington D.C.: American Bar Association Publishing, 1989. [Available for free through the ABA at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].    

This publication of the American Bar Association describes an increase of the utilization of mediation in general, but gives a mandate for “mediators to learn more about the elderly, how to serve them better, and involve them more.” The booklet strives to provide the basic background information for mediators educating themselves about the aging process, the aging network, law-related disputes common to older persons, and the value of involving the elderly in the mediation process.

IV. OTHER MEDIA

A. VIDEOS

Adult Guardianship Mediation: An Introduction. Prod. The Center for Social Gerontology, Inc. and Michigan State Bar Foundation. Perf. Zena Zumeta. TCSG, 1999. [VIDEO] [Available for \$50 through TCSG at <http://www.tcsg.org/public.htm>]. ♥ ✂ 🌐

This is a 30-minute video from The Center for Social Gerontology that presents a “demonstration of a guardianship mediation, using actors to portray family members.” It tells the story of a seventy-five year old man facing a complicated family situation potentially involving guardianship. The video’s two primary audiences include attorneys, social workers, mediators, court professionals, health care workers, and other people that work with older persons as well as family members of older persons. Suitable for national use.

Adult Guardianship Mediation: A Judge’s Perspective. Prod. The Center for Social Gerontology, Inc. Perf. Judge John Kirkendall. TCSG, 1997. [VIDEO] [Available for \$25 through TCSG at <http://www.tcsg.org/public.htm>]. ♥ ✂ 🖐

This 20-minute video from The Center for Social Gerontology gives a judge’s perspective on the value and use of adult guardianship mediation. Judge John Kirkendall of the Washtenaw County Probate Court implemented the “first adult guardianship mediation program in the nation, and, as a result has a ‘hands-on’ feel for how mediation can assist the courts in best meeting the needs of persons who are under consideration for guardianship.” Designed for judges, lawyers, mediators, and elderly programs considering developing an adult guardianship mediation program.

Collaborative Mediation: Medicare Beneficiaries, Providers and Practitioners. Prod. Arkansas Foundation for Medical Care. AFMC, 2003. [VIDEO] [Available for free through the AFMC at http://www.afmc.org/HTML/orders/cons/phy_medi_tool.aspx].  

This video was produced by the Arkansas Foundation for Medical Care in order to dramatize a typical face-to-face mediation. It begins when the beneficiary / representative lodges their initial complaint to the Quality Improvements Organizations within the federal government. It then depicts the steps that are involved in engaging in the mediation process.

Dispute Resolution Skills for Long Term Care Ombudsman. Prod. Office of the California Long Term Care Ombudsman Program and the National Institute for Dispute Resolution. The National Long Term Care Ombudsman Resource Center, and the National Association of State Units on Aging, 1992. [VIDEO]    

This video from the National Long Term Care Ombudsman Resource Center and the Office of the California Long Term Care Ombudsman Program “features five vignettes that show ombudsmen using dispute resolution techniques to handle complaints.” The skills of the negotiator, mediator, educator, and planner are portrayed by the ombudsman. Intended to train long-term care ombudsman in alternative dispute resolution methods.

The Elderly Patient: What to Do with Mother. Prod. Association for Conflict Resolution. Perf. Dr. John Haynes. ACRnet, 2004. [VIDEO] [Available for \$75 through the ACR at <http://www.acrnet.org/library/catalogue.htm - videos>].  

This video produced by the Association for Conflict Resolution illustrates a common familial problem of sibling trying to make the best decision for their elderly mother. The siblings are not able to come to an agreement through traditional means. A mediator is portrayed as helping the family understand all options available to them in order to make the best decision for the mother. Mediation as a positive option for some families is promoted.

Family Caregiver Mediation Project. Prod. 2much Media, Inc. The Center for Social Gerontology, Inc., 2004. Family Caregiver Mediation Project. Prod. 2much Media, Inc. The Center for Social Gerontology, Inc., 2004. [Available for \$17-25 through TCSG at <http://www.tcsg.org/public.htm>].  

This 12-minute video from The Center for Social Gerontology “provides an excellent overview of caregiver/guardianship mediation and how it benefits elders and family caregivers confronted with difficult decisions about future care and assistance.” Intended as an educational piece for both professional and lay caregivers.

Harris County Long Term Care Mediation Pilot. Prod. The Center on Aging at the University of Texas-Houston School of Nursing, and the Long-Term Care Ombudsman Program. The University of Texas Health Science Center at Houston, 2004. [VIDEO] [Available for free through the Harris County LTC Program at http://www.ltcmmediation.org/LTC_Mediation/outreach1.htm].     

This mediation video made by The Center on Aging at the University of Texas-Houston School of Nursing and the Long-Term Care Ombudsman Program highlights the Harris County Long Term Care Mediation Pilot. The pilot was “a regional initiative to demonstrate the potential of mediation in resolving disputes related to long-term care placement by offering free, on-site mediation services to the residents of area assisted living and nursing facilities,” and the video was designed to be used “as a training and education piece for local facilities participating in the pilot.” Topics covered include caregiving after placement in a nursing home, the safe environment mediation can create, and the important role volunteer ombudsman can play, among others.

Older Americans: What Mediators Need to Know. Prod. American Association of Retired Persons. AARP, 1994. [VIDEO]   

Part of a Dispute Resolution Technical Assistance Kit offered by the American Bar Association that includes 25 brochures and the “Stop! You’re Both Right” video, “Older Americans” is a training video for dispute resolution programs. The kit gives background on “aging issues for practicing mediators and dispute resolution programs, and includes several one-page profiles of model projects from across the country, as well as outreach ideas and resources.”

Stop! You're Both Right. Prod. American Association on Retired Persons. AARP. Perf. Richard Dysart. AARP, 1994. [VIDEO] [Available for \$15 through the ABA at <http://www.abanet.org/aging/publications/publicationslistorder.shtml>].   

This video is an accompaniment to the manual and brochure of the same name. The video is narrated by Richard Dysart and was “designed for outreach to older persons and the public.” Three case scenarios in which mediation is used to address common problems of the aging illustrate outreach procedures for older persons.

B. ONLINE INFORMATION

“Adult Guardianship Mediation Services.” Aug. 2004. Virginia Department for the Aging. 5 Nov. 2007 <[http://www.vda.virginia.gov/pdfdocs/Adult Guardianship Mediation Services.pdf](http://www.vda.virginia.gov/pdfdocs/Adult_Guardianship_Mediation_Services.pdf)>. ♥

This is a short informational document produced by the Virginia Department for the Aging that briefly describes the Adult Guardianship Mediation process. It explains what a guardianship case is and how it can arise as well as how positive and appropriate mediation can be for this situation.

Berschler, Patricia, and Thomas O’Reilly. “Elder-Mediation: Finding Family Balance When Caregiver Roles Reverse.” May 2003. Endorsed by Seniors. 22 Aug. 2007 <<http://www.seniorsapprove.com/mediation.html>>. ♥ 👤

This online article discusses the common familial situation of caregiver role reversal when children grow up and parents age. The article presents elder mediation as a proactive solution to confront the role reversal situation head-on. A description of elder mediation is given, including common matters involving older persons that could be appropriate for mediation. A step-by-step explanation of the mediation process is also given.

Bertschler, Patricia, and Thomas O’Reilly. “Elder-Mediation: Finding Family Balance when Caregiver Roles Reverse.” 2003. Northcoast Conflict Solutions. 6 Sept. 2007 <http://www.ncsmmediation.com/articles/elder_mediation.html>. ♥ 👤 🖐

This short, basic article discusses the merits of elder mediation. The article describes different conflicts that can arise between seniors and other family members as the caregiver role reverses. The article does this through an in-depth look at one particular mediation session performed by the authors. It also explains a “six-step process” for Elder Mediation that was used in the in-depth example.

“California Senior Legal Hotline’s Mediation Department – Q & A.” 2006. National Legal Aid & Defender Association and the Senior Legal Hotline. 6. Sept. 2007
<http://www.nlada.org/Training/Train_Civil/Equal_Justice/2006_Materials/101_2006_Cut_rona_Handout_2>. 🌟

This form is a basic question and answer sheet about the California Senior Legal Hotline’s Mediation Department. It touches on such subjects as longevity of the Hotline, what types of cases are referred for mediation, and discussion of some mediation success stories for the organization.

Castner, Susan. “Guardianship Mediation.” 1996. First Business Systems, Ltd. 22 Aug. 2007 <<http://www.firstbiz.com/mediate/guardshp.htm>>. ♥

This brief article gives a basic explanation of guardianship and its potential adverse effects. It discusses the increase in guardianships in the United States in recent years and under what circumstances guardianship should be considered. The article also briefly describes elder mediation and presents it as a positive option to the guardianship process.

Castner, Susan. “Resolution of Long-Standing Family Conflicts.” 2003. First Business Systems, Ltd. 22 Aug. 2007 <<http://www.firstbiz.com/mediate/hatfmcoy.htm>>. 👥

This is a brief piece that explores long-standing family conflicts and the effects they can have on family members. Describes a situation involving a 16-year old son and an absent father and how mediation can help resolve these conflicts.

Craig, Yvonne. “Elder Mediation Project.” 1995 Peer Counsellor Journal 12.1. 22 Aug. 2007 <<http://www.peer.ca/PCJ12.1EMP.html>>. ♥ 🚗

This article compares and contrasts different methods of managing end-of-life care in Canada, the United States, and Great Britain. The article describes how conflicts in end-of-life decision-making arise and the different ways in handling this such as community education, peer-helping (peer counseling), and elder mediation. Article’s author offers tips to improve access to these methods and to improve quality of these methods for older persons.

Doherty, Timothy L. "Bioethics Mediation: A Guide to Shaping Shared Solutions: Book Review." Rev. of Bioethics Mediation: A Guide to Shaping Shared Solutions, by Nancy N. Dubler and Carol B. Liebman. Health Progress 86.5. Sept/Oct. 2005. 24 Aug. 2007 <<http://www.chausa.org/Pub/MainNav/News/HP/Archive/2005/09SepOct/departments/bookreviews/HP0509E1.htm?print=true>>. 

This is a book review of Nancy Dubler and Carol Liebman's book Bioethics Mediation: A Guide to Shaping Shared Solutions. The author assesses the book in a favorable manor and highlights areas that he feels would be of interest to another reader of the book.

Dubler, Nancy Neveloff. "Bioethics: Mediating Conflict in the Hospital Environment." Dispute Resolution Journal. May/June 2004. Find Articles. 24 Aug. 2007 <http://calbears.findarticles.com/p/articles/mi_qa3923/is_200405/ai_n9377112>. 

This article, through the use of two detailed cases, one about an older man who was not recovering from multiple surgeries and his bereaved wife and another case of a young, 17-year-old man diagnosed with gliosarcoma, is able to illustrate the practical need for bioethics mediation. The article gives many examples of benefits acquired through bioethics mediation as well as giving a brief explanation of how bioethics mediation would work. Also discussed are limitations of mediation.

"Eldercare Facilitated Dialogue & Shared Decision Making." 2006. Baltimore Mediation Center. 5 Sept. 2007 <http://www.baltimoremediation.com/fam_fac_elder.php>.  

This is an online article from the Baltimore Mediation Center's website that describes the Center's Eldercare Facilitated Dialogue & Shared Decision-Making program. A description of the program is given including a background of how conflict can arise in families and that elder care mediation is also known as facilitated shared decision-making. A depiction of the facilitator's job is provided. Through an anecdote about the 74-year-old Ms. S. and her family, the Center is able to convey why facilitated shared decision-making can be a positive process for both seniors and their families. A discussion of who can be involved is also framed.

“Elder Mediation.” Aug. 2007. The Sketchley Law Firm, P.A. 12 Nov. 2007

<http://sketchleylaw.com/images/08-2007.pdf>>. ♥ 🧑🧑🧑

This one-page informational sheet from a private law firm in Tallahassee, Florida gives a brief description of elder mediation. It discusses issues appropriate for mediation, the benefits of mediation, and how to participate in an elder mediation. Contact information for the firm is also included.

“Equal Justice and Empowerment Through Mediation: Where Do We Stand?” 2006.

National Legal Aid and Defender Association. 5 Sept. 2007

http://www.nlada.org/Training/Train_Civil/Equal_Justice/2006_Materials/101_2006_Cut_rona_Outline>. ⭐

This document describes a workshop presented by the National Legal Aid and Defender Association called “Equal Justice and Empowerment through Mediation: Where do we Stand?” The workshop “will present recent initiatives in resolving conflicts through mediation with an emphasis on conflicts of elders but applicable to the needs of other legal services clients.” What mediation is, problems specific to low/moderate income clients, recent initiatives in elder mediation, pros and con of mediation, and how mediation and legal services programs can work together are all discussed topics.

Fleming, Robert B. “Protecting Seniors’ Autonomy.” NAELA Advanced Practitioners

Invitational Program. March 2004. 29 Oct. 2007 <[http:// www.elder-](http://www.elder-law.com/files/Fleming-Autonomy.pdf)

[law.com/files/Fleming-Autonomy.pdf](http://www.elder-law.com/files/Fleming-Autonomy.pdf)>. ♥

This article, posted online, examines the concept of autonomy, especially in the context of older persons, and suggests ways to preserve a senior’s autonomy. A description of the term is given and a discussion of how the legal system can act to preserve autonomy follows. Obstacles of the legal process are also identified.

Gage, David, John Gromala, and Edward Kopf. "Holistic Estate Planning and Integrating Mediation in the Planning Process." Real Property, Probate and Trust Journal. Fall 2004. Gromala Mediation Service. 23 Aug. 2007 <<http://www.mediation-adr.com/article7.html>>.



This item explains holistic estate planning "as an alternative to traditional estate planning." The article explores the benefits to families when this alternative dispute resolution method is used that can "facilitate the transition of assets between generations." Through the use of two case studies, the article is able to illustrate that mediation can do more than just protect assets; it can also help preserve family values and traditions.

Gary, Susan N. "Mediating Probate Disputes." Probate and Property Magazine. July/Aug. 1999. American Bar Association. 23 Aug. 2007

<<http://www.abanet.org/rppt/publications/magazine/1999/ja99gary.html>>. A small icon of a money bag with a dollar sign and a hand with fingers spread, positioned below the citation.

This is a piece that explains that "a lawyer in a probate dispute must be able to advise his or her client both about the client's legal rights and remedies and about the client's options for resolving the dispute." It continues to discuss the nature of probate disputes and how and when conflict may arise. The article then presents mediation as a desired option for this kind of dispute and gives the many benefits of as well as potential problems for mediation. It gives guidelines for using mediation and an example of a probate mediation.

Grassini, Jennifer. "Elder Mediation: Solving Problems Before they Happen." 28 June 2006. ArticlesforFree. 22 Aug. 2007 <<http://www.articles43.com/article/Elder-Mediation-Solving-Problems-Before-They-Happen-37132.html>>. A small icon of a bird and a group of three people, positioned below the citation.

This is an item that describes elder mediation and the benefits for seniors and their families through the author's telling of a personal family story. The article then continues to give its senior audience advice in maintaining their autonomy when making long-term care decisions.

“Guardianship Mediation.” Trends in the State Courts: 1999-2000 Edition. Report. 2000. National Center for State Courts and the State Justice Institute. 23 Aug. 2007
<http://www.ncsconline.org/WC/Publications/KIS_CtFutu_Trends99-00_Pub.pdf>. ♥

This is a section of the Trends in the State Courts report prepared by the National Center for State Courts and the State Justice Institute that discusses guardianship mediation. The report discusses the prevalence of guardianship mediation in states where it is practice. The section also discusses a 1997 TCSG study on guardianship mediation and lists lack of referrals, uncertain funding, and few training resources as obstacles for the mediation option.

Hommel, Penelope A., Erica F. Wood, and Charles L. Maynard. “Guardianship... There are Alternatives.” Spring, 1990. Find Articles. 27 Aug. 2007
<http://findarticles.com/p/articles/mi_m1000/is_n360/ai_9029327>. ♥

This article discusses the consequences of guardianship as being the “most restrictive and intrusive form of intervention that can be imposed upon an aged individual.” The article examines the process of guardianship including how the “need” arises as well as how guardianship cases an aged individual to lose his or her rights. It discusses unplanned and planned alternatives to guardianship. The article highlights the need for advance planning in order to make the aging process as smooth as possible for older adults.

Houk, Carole. “HealthCare Ombudsman / Mediator: The Next Big Thing in Medical Dispute Resolution?” 2003. Pittsburg Regional Health Institute. 7 Sept. 2007
<http://www.prhi.org/pdfs/HCOM_Description.pdf>. 📄

This piece explores alternatives to tort reform as a solution to America’s medical malpractice insurance crisis. It illustrates that organizational ombudsman and mediator programs might be part of the solution to this growing problem. The article specifically looks at the HealthCare Ombudsman/Mediator (HCOM) position at the National Naval Medical Center and how it has been beneficial solving healthcare disputes.

“How Mediation Provides Solutions for Seniors and Their Families.” 1 Apr. 2005. Centre for Mediation & Dispute Resolution (CMDR) Online. 23 Aug. 2007
<<http://www.cmdronline.com/april-1-2005.htm>>. 

This is an online posting on the Centre for Mediation & Dispute Resolution website that describes mediation as a beneficial option for families and the elderly when conflict arises. It describes the basic process of elder mediation and the benefits that can provide.

Kardasis, Arline, and Rikk Larsen. “When Aging Issues Lead to Family Conflict.” Massachusetts Lawyer Weekly. 11 Apr. 2005. 22 Aug. 2007
<<http://www.elderdecisions.org/docs/lawyersweekly.pdf>>. 

This article with a target audience of elder law attorneys seeks to educate lawyers about family conflict issues that may arise with aging issues. It presents mediation as a useful option in these situations. The article helps lawyers identify how well a family may be handling an onset of aging issues, and in what situations elder mediation may be most appropriate or desired. The article focuses on providing the best possible outcome for the client when facing these aging issues.

Kardasis, Arline, and Blair Trippe. “Elder and Family Mediation Services.” Dec. 2005. LongTermCareLink.net. 22 Aug. 2007
<http://www.longtermcarelink.net/eldercare/elder_mediation.htm>.  

This item describes what elder mediation is and why families might want to choose this method as an option to solving problems and issues that may arise. The article takes the reader through the mediation process giving advice about the process. It continues to frame different situations that may lead to familial dispute and helps clarify which situations may or may not be appropriate for elder mediation.

Keefer, Alice. “Mediation in Guardianship Cases.” May 1999. National Elder Law Network (NELN). 23 Aug. 2007 <<http://www.neln.org/bibs/keefer2.html>>.  

This is an annotated bibliography prepared for the National Elder Law Network that includes many elder mediation and mediation resources. It also includes several statues and cases related to guardianship mediation as well as giving an introduction as to the annotated bibliography’s purpose.

Kelly, Sheila Creaton. "Can Grandparents, Others Get Visitation? State Courts Are in Disarray." 23 July 2001. Divorce with Dignity Mediation Services. 13 Nov. 2007 <[http://www.dwdmediation.org/GrandparentsVisitation Rights072301.htm](http://www.dwdmediation.org/GrandparentsVisitationRights072301.htm)>. 

This article posted on a private website discusses disputed grandparent visitation of grandchildren. The article claims that the state courts are split in interpretation of a Supreme Court case in 2000. Furthermore, the article claims that the legal process that can follow can be harmful to family members, especially children. The role of guardian ad litem is discussed as an option. Early mediation is hailed as the most effective option, however.

Klein, Cathy A. "Alternative Dispute Resolution in Health Care." Feb. 1996. Find Articles. 30 Aug. 2007 <http://findarticles.com/p/articles/mi_m0FSL/is_n2_v63/ai_19128847>. 

This piece acknowledges that there is an increase in disputes involving health care providers. The article examines the new world of health care alternative dispute resolution and explains the basis process. Mediation and arbitration are also compared and contrasted, as well as several other terms including mini-trial, early neutral, etc.

Lenski, Tammy. "Elder-Care Mediation – How a New Breed of Mediators Helps Families Navigate Difficult Conversations." 4 Oct. 2006. Ezine Articles. 22 Aug. 2007 <<http://ezinearticles.com/?Elder-Care-Mediation:-How-a-New-Breed-of-Mediators-Helps-Families-Navigate-Difficult-Conversations&id=317878>>.  

This is a short article that introduces the reader to elder mediation and defines it as helping "families make vital decisions while also keeping communication channels open and avoid[ing] damage to family relationships." It describes basic situations leading to elder mediation as well as helping the reader to determine whether elder mediation is right for his or her situation.

Lisante, Joan E. "Grandparents: Know Your Rights!" 2007. Parenthood.com. 13 Nov. 2007 <http://www.parenthood.com/articles.html?article_id=8231>. 

This article discusses grandparent's rights in regard to visitation of grandchildren. It offers tips to keep people connected with their grandchildren, even during times of family conflict. A brief description of the state laws is given, as well as a landmark Supreme Court Case. Mediation is offered as an advantageous option to resolve conflict over visitation as opposed to traditional litigious methods. Other tips and common sense suggestions are given as well.

Madoff, Ray D. "Mediating Probate Disputes: A Study of Court Sponsored Programs." Boston College Law School Research Paper Series 32. 26 Feb. 2004: 698-725. 23 Aug. 2007 <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=509624 - PaperDownload>.



This lengthy study describes many aspects of mediating probate disputes in relation to court-sponsored programs. The study begins by defining mediation and explaining the basic mediation process. It then continues to explore court-sponsored programs promoting mediation of probate disputes in Texas; Florida; Fulton County, Georgia; Los Angeles County, California; San Francisco, California; and Hawaii. It then examines common issues in developing probate mediation programs including encouraging the acceptance of mediation, establishing standards, determining fees and funding, and setting time-lines for mediations.

Marsh, Stephen R. "Institutional Health Care Mediation (IHCM)." 2000. ADR Resources: Essays, Forms, Checklists, Links. 23 Aug. 2007 <<http://adrr.com/adr1/essayk.htm>>. 

This article explains that hospital staff, HMO's, clinical practices and other groups are all "institutions that use mediation to resolve internal problems." The article specifically focuses on how Institutional Health Care Mediation (IHCM) mediates "inside conflicts between groups." It also explains that IHCM has three functions: to explore the models used by each group to define reality, find guidelines that both sides can use to verify and define reality, and to educate. (PAGE 87)

Mewhinney, Kate. "North Carolina and Mediation of Guardianships." Jan. 2007. Wake Forest University School of Law. 30 Oct. 2007

<<http://www.law.wfu.edu/prebuilt/AALShandout-KM-Jan07.pdf>>.      

This is a material packet produced as a supplement to the "Mediation and the Elderly" series presented by the Wake Forest University School of Law. The packet includes a description of guardianship disputes in North Carolina and explains three cases in which guardianship of an older adult is not considered appropriate including a family disagreement over money, when the older person still has his/her requisite mental capacity, and concerns over an older person's safety if they are living alone. An extensive chart that discusses concerns and arguments that can lead to guardianship and appropriate possible responses are included in the packet as well as a template for an "Agreement to Designate a Family Decision Maker for [name]" document.

McCann Beranger, Judy. "Elder Care Mediation: The Future is Now." 2004. NormanPickell.com and the Resolve Family Mediation Canada Magazine. 6 Sept. 2007 <<http://www.normanpickell.com/eldercarearticlemc.htm>>. ♥ 🗨️

This article by the 2003-2004 president of Family Mediation Canada discusses the various situations in which mediation can be useful for seniors and their families. It also touches on the growing elder care mediation field of working with Alzheimer's and other related disease patients. The article focuses on unique characteristics that require the mediator's attention, such as maintaining the senior's independence and capacity issues, in order to provide a quality mediation experience when working with older persons in elder care mediation situations.

Medford, Pat. "Case Examples of Situations Appropriate for Elder Mediation." 2004. Elder Mediation Services. 12 Nov. 2007 <<http://www.eldermediationservices.com/caseexamples.html>>. 🏠 🚗 🕊️ ♥ 🏠 💰 🏠

This is a list of some examples of situations that may be appropriate for elder mediation. Areas included and discussed are housing / living arrangements, safety, caregiving, health planning, medical treatments, financial management, consumer issues, estate planning and probate matters, guardianship / conservatorship, social life and activities, spirituality and aging issues, end-of-life decision-making, and situations involving ongoing relationships.

Medford, Pat. "Pat's Article: 'What is Elder Mediation?' What is Elder Mediation – and What's in it for the Client and the Attorney?" 2004. Elder Mediation Services. 31 Oct. 2007 <<http://www.eldermediationservices.com/Patsarticle.html>>. ♥

This basic article begins with the author giving a basic explanation of mediation and then contrasts that with elder mediation and the other names it can currently go by such as "guardianship mediation," "family caregiver mediation," or "shared decision making services." She explains situations that are appropriate for elder mediation and what makes practitioners of elder mediation in tune with the mediation process. The fact that the elder participates in the mediation is held up to be a major and important aspect of this mediation field and this is backed up through a discussion of how mediation complements the practice of elder law so well. Benefits of elder mediation are described, and very short background is given.

“Mediating and Arbitrating Long Term Care Disputes.” Jan. 2005. National Arbitration Forum. 17 Jan. 2008 <<http://www.adrforum.com/resource.aspx?id=509>>. 

This is an online document prepared by the National Arbitration Forum that discusses the increase in use of long-term care mediation and arbitration by providers, insurers, and residents of long-term care facilities. Relevant topics are discussed throughout the piece including alternatives to lawsuits, what mediation / arbitration and their advantages are, Elements of a Successful Long Term Care Consumer ADR Programs, how to draft and present an ADR Agreement, and many others. Information about the National Arbitration Forum is also included in the piece.

“Mediation in Care-Giving Disputes.” Nov. 2006. Michigan Long-Term Care Ombudsman Program. 8 Jan. 2007
<http://www.michigan.gov/documents/miseniors/MediationCareDisputes_194199_7.pdf>

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This brief document prepared by the Michigan Long-Term Care Ombudsman Program suggests mediation as a beneficial way for seniors to handle a care-giving dispute. Mediation for seniors is briefly described as well as several advantages. Kinds of issues that can be mediation is also included, and a list of mediators in Community Dispute Resolution Programs (CDRP) are given, too.

“Mediation in the Probate Court.” 2007. New Hampshire Probate Court Mediation’s Office of Mediation and Arbitration. 20 Dec. 2007
<<http://www.courts.state.nh.us/probate/probmediation.htm>>. 

This is a list of frequently asked questions about mediation in the probate in New Hampshire. Included are the purpose of the Probate Mediation Program, benefits of basic mediation, and how to get more information on probate mediation.

“Mediation Works for Families and Siblings in Dispute over Inherited Property including Summer Homes and Cherished Personal Property.” 2006. Baltimore Mediation Center. 5 Sept. 2007 <http://www.baltimoremediation.com/fam_med_trust.php>.  

This is an online article from the Baltimore Mediation Center’s website that describes how “mediation works for families and siblings in dispute over inherited property including summer homes and cherished personal property.” Mediation is described as ideal for this kind of situation as it “allows siblings and their spouses or significant others, or grandchildren if so chosen, to have meaningful dialogue about the effects of the deaths and how they wish to deal with and distribute inherited property in meaningful ways.” The many advantages of mediation in this situation are weighed in the article.

Nielsen, Cynthia. “East Metro Mediation: Annual Report 2006-2007.” Oct. 2007. East Metro Mediation. 6 Feb. 2008
<<http://www.ci.gresham.or.us/departments/ocm/mediation/annualReport2006-07.pdf>>. 

This online document is the Annual Report for East Metro Mediation of Gresham, Oregon for 2006-2007. Included on page two of the document under the heading “Elder Mediation” is a section about the mediation center’s recently launched elder mediation services. What training was provided to mediators, the policies developed for services to the elderly, funding, and the connections with local senior agencies are also discussed. The article explains that the East Metro Mediation also created an advisory council designed to overview the center’s elder mediation cases and provide advice or best practices. The center had fifteen Elder Mediation cases over the seven-month duration of the program.

Okrent, Deanna, and Virginia Dize. “Ombudsman Advocacy Challenges in Assisted Living: Outreach and Discharge.” March 2001. National Association of State Units on Aging, National Long Term Care Ombudsman Resource Center, and the National Citizen’s Coalition for Nursing Home Reform. 21 Aug. 2007
<<http://www.ltombudsman.org/uploads/SachallengesinALdischarge.pdf>>.   

This paper describes the challenges ombudsman programs face in doing assisted living outreach and includes practical steps ombudsmen have identified to more effectively reach consumers and providers. There is also a section that focuses on ombudsman program intervention in assisted living discharges that includes a number of case examples. Appendices are available from NASUA.

Pickell, Norman. "Mediation: What's in it for Seniors and their Families." 22 Aug. 2007. Norman Pickell's Legal Web Reference. 22 Aug. 2007 <<http://www.normanpickell.com/medwhatseniorsfam.htm>>. 

This is a running list posted on a private website that lists reasons why mediation is beneficial to seniors and their families.

"Questions and Answers for Mediation Providers: Mediation and the Americans with Disabilities Act (ADA)." Oct. 2006. U.S. Equal Employment Opportunity Commission, the National Council on Disability, and the U.S. Department of Justice. 17 Jan. 2008 <http://www.eeoc.gov/mediate/ada/ada_mediators.html>.   

This is an online document that address common questions for mediation providers regarding the compatibility of mediation and the Americans with Disabilities Act (ADA). An extensive General Considerations section is included for the reader as well as questions and answers about the mediation readiness of the party, the mediator, and other stakeholders. Other question sections include establishing effective mediation procedures, some special considerations for mediators, and mediator training and skills. Several appendices are also included to help clarify and direct mediation seekers.

Radford, Mary F. "An Introduction to the Uses of Mediation and Other Forms of Dispute Resolution in Probate, Trust, and Guardianship Matters." Winter 2000. Find Articles. 23 Aug. 2007 <http://findarticles.com/p/articles/mi_qa3714/is_200001/ai_n8890215>.  

This lengthy article gives a detailed overview of the uses of mediation and other forms of dispute resolution in probate, trust, and guardianship matters. It describes alternative dispute resolution methods designed to replace and / or streamline litigation. It continues to describe mediation in general, the different kinds of mediation, under what circumstances mediation is appropriate, and many other basic mediation topics. It continues to look at mediation specifically in relation to probate, trust, and guardianship law including advantages and disadvantages as well as some distinguishing aspects of mediation in probate, trust, and guardianship cases.

Rhudy, Robert J. "Senior Mediation: When More than Sixty-Four." Maryland Bar Bulletin. May 2006. The Maryland State Bar Association, Inc. 24 Aug. 2007

http://www.msba.org/departments/commpubl/publications/bar_bult/2006/may/rhudy.



This article acknowledges Maryland's growing aging population and draws attention to the unique conflicts that can arise involving older persons, especially involving caregiver decision-making. The article presents mediation as an advantageous tool "that can help family members and others have difficult conversations and to make important decisions in such cases." It discusses the prevalence of elder mediation programs in Maryland and the benefits of mediation that can be experienced by both the older person and other family members. Access to mediation in Maryland is also covered.

Seff, Marsha Kay. "Mediation Can Help Resolve Care Issues." Nov. 2004. San Diego Eldercare Directory. 20 Mar. 2008

http://www.signonsandiego.com/uniontrib/20041120/news_1c20seff.html.



This is a basic article posted on San Diego's Eldercare Directory website that discusses conflict that can arise in families over care-giving issues. Several examples of common causes of conflict are listed and San Diego's Gerontology Mediation Program is discussed. Mediation is examined further and is offered as an option for family conflict involving care-giving.

Senft, Louise Phipps. "Commentary: Mediation Can Work in Many Elder Care Situations." St. Louis Daily Record. 6 May 2006. Find Articles. 22 Aug. 2007

http://findarticles.com/p/articles/mi_qn4185/is_20060506/ai_n16353789.



This newspaper column explores misunderstanding between family members, health care providers, care home administrators or staff, friends and roommates, and older persons and how mediation can be a useful tool for addressing these misunderstandings. The article discusses aspects that make senior mediation unique in comparison to mediation at large as well as the overall benefits of mediation for all involved parties.

Shepardson, Jeff. "Wise Talk: A Senior Adult Mediation Service." The Ithaca Journal. 15 Feb. 2006. Ithaca College Gerontology Institute, and the Aging Services Network of Tompkins County. 21 Aug. 2007

<http://www.cdrc.org/documents/IJWiseTalkEditorialFebruary152006.pdf>. 

This article discusses several developments across the United States involving senior adult mediation. The developments described include a 2001 article by the ABA Commission of Legal Problems for the Elderly, a 2004 United Way of Tompkins County needs assessment study, and a senior adult mediation program known as Wise Talk.

Soeka, Eva M. "Senior Lawyers: An Option for Families and Older Adults, Adult Guardianship Mediation." General Practice, Solo & Small Firm Division Magazine 17.2. Mar. 2000. 23 Aug. 2007

<http://www.abanet.org/genpractice/magazine/2000/mar/soeka.html>.  

This piece gives an explanation of basic conflicts that can arise in families when guardianship of an older family member is considered. The article explains that guardianship is not really the best choice, and that adult guardianship mediation is a useful and viable option for families in these circumstances. The article also takes the reader through the mediation process.

"Summary of Proposed Operational Model." Aug. 2004. Harris County Long Term Care Mediation Pilot. 6 Feb. 2008

http://www.ltcmediation.org/LTC_Mediation/Prop_Oper_Model.pdf.     

This is a document that outlines the proposed operational model for a mediation project designed by the Harris County Long Term Care Mediation Pilot. The project was developed to advance "the frontiers of mediation in a new context: nursing homes and assisted living facilities." The document includes what types of cases will be mediated, who will do the mediations, issues of resident capacity, a discussion of the consent process that will be used, and case intake and scheduling information.

Wood, Linda K. "Why and How to Mediate Estate and Guardianship Disputes." 2006. Linda K. Wood private website. 12 Nov. 2007 <<http://lindawood.net/why-and-how-to-mediate-estate-and-guardianship-disputes>>. 💰 ♥

This article posted on the author's private website discusses both the advantages to using mediation in estate and guardianship cases as well as the "how-to" of the mediation process. The article cites several statistics that indicate mediation's success in the estate / probate and guardianship areas and explains why mediation may leave stakeholders more satisfied than traditional conflict resolution techniques such as litigation. Issues ripe for mediation are mentioned. The author also gives several tips for mediation for both mediators and stakeholders.

"What is the Senior Caregiver Mediation Program?" Online posting. 2001. Caregiver Support Services, Department of Aging & Youth, Onondaga County Government. 20 Mar. 2008 <http://www.ongov.net/Aging_and_Youth/caregiver.html>. ♥ 👥

This is an online posting on the Onondaga County, New York website regarding the Onondaga County Government Senior Caregiver Mediation Program. The posting describes the program and the services it provides including "confidential mediation between adult caregivers and older family members." It illustrates the program's goals, information the mediator provides, eligibility requirements, as well as contact information to learn more about the program or schedule an appointment.

Younger, Barbara C. "Grandparent Visitation: An Issue for Mediation." 1998. DivorceNet.com. 23 Aug. 2007 <<http://www1.divorcenet.com/ma/maart-07.html>>. 👥

This is a very short online posting that presents conflict involving grandparent visitation as a potential area for mediation. The posting explains the process for initiating a mediation session and what a mediator will do to help in that contentious issue.

Zinner, Roslyn. "Resolving Senior Issues through Mediation." Sept. 2006. Divorce and Family Mediation Services. 6 Sept. 2007

<http://www.seniormediation.com/seniormedarticle.htm>>.   

This article begins with an assessment of why senior mediation is necessary and important. It continues to discuss the new Maryland Senior Citizen Mediation Project of the Maryland Department of Aging and its purpose of developing dispute resolution programs in order to benefit seniors, educating geriatric professionals about the programs, and creating screening and referral systems needed to deliver the services to seniors.

C. MEDIATION TRAINING MATERIAL / PROGRAM INFORMATION

Adult Guardianship / Family Caregiver Mediation Training. Ann Arbor, MI: The Center for Social Gerontology, Inc. and PeaceTalks, 2006. 8 Feb. 2008
<<http://www.tcsg.org/med.htm>>. [BROCHURE] ♥

This is a brochure for The Center for Social Gerontology and PeaceTalk's Adult Guardianship / Family Caregiver Mediation Training. The brochure describes the training details for 2006's training in Ann Arbor, Michigan including who should attend the advanced training; course content; logistics; information about adult guardianship mediation, The Center for Social Gerontology, and PeaceTalks; information about the trainers; and a registration form.

Advanced Mediation Training: Elder Mediation. Brochure. 2007. Elder Mediation Program of the Montgomery County Mediation Center. 31 Oct. 2007 <http://www.mediation-services.org/forms/adv_elder_trng_brochure07.pdf>. [BROCHURE] ♿

A brochure describing the Montgomery County Mediation Center's Advanced Elder Mediation Training. The training advertised, held from October 1-4, 2007, had an objective of orienting "experienced mediators to the kinds of conflicts associated with aging and the special practice issues that arise when working with this population. A workshop description including logistics is included, as is a registration form and a brief explanation of the trainers.

Confidentiality and Mediation Agreement. Juneau, AK: Alaska Court System, Feb. 2007. 8 Nov. 2007 <<http://www.state.ak.us/courts/mediation/cma-agm.pdf>>. [CONFIDENTIALITY AGREEMENT] ♥ ✂ ♻

This is a two-page document that acts as the Confidentiality and Mediation Agreement for adult guardianship mediation cases for the Alaska Court System. The document includes fourteen points that the mediation stakeholder must agree to and sign before the mediation may commence such as confidentiality issues; behavior before, during, and after the mediation; agreement details; and mediator information. May be used as a template for other organizations.

“Eldercare Mediation” Oct. 2007. Family Mediation Canada. 6 Feb. 2008
<<http://216.147.31.38/ADRNet/Webinars/fmceldermmediation.htm>>. [ANNOUNCEMENT]



This is an announcement for a 3-part web seminar that was held by Family Mediation Canada between November 1, 2007 and November 14, 2007. The web seminar was designed to act as an in-depth orientation program for mediators to become more diversified in their training and the needs of families by discussing eldercare mediation. The announcement states that Judy McCann-Beranger will lead the seminar and that lawyers, physicians, psychologists, social workers, mediators, educators, and other health care professionals are invited to join. Topics to be considered for the web seminar include what eldercare mediation is, the pioneering effects of eldercare mediation, that issues are covered by this kind of mediation, elder abuse, casework application details, and ethical issues in elder mediation.

“Elder Mediation Training February 6-7, 2008.” 2007. University of Massachusetts Boston College of Public and Community Service. 8 Jan. 2008
<<http://www.disres.umb.edu/announcements.php?item=505>>. [ANNOUNCEMENT]



This is an announcement for elder mediation training from the University of Massachusetts Boston College of Public and Community Service held on February 6-7, 2008. The announcement lists the training details and includes the purpose of elder mediation training.

Family Law Mediation Training: Meeting Rule 8’s Training Requirements for Mediators.
Boston, MA: Massachusetts Continuing Legal Education, Inc. Nov. 2007. 14 Dec. 2007
<http://www.mcle.org/MCLE_Web/scriptcontent/custom/Includes/Catalog/2080093P01_J.PDF>. [INFORMATIONAL SHEET]

This two-page document includes an informational sheet and a registration form for the Massachusetts Continuing Legal Education, Inc.’s Family Law Mediation Training held January 7-10, 2007. Information included contains why to attend, special focus on family law, what the course covers, and a selected skills checklist.

Family Mediation Training Standards. Austin, TX: Texas Mediation Trainers Roundtable, Aug. 2006. 8 Nov. 2007 <[http://tmtr.org/PDF Files/30hr-training.pdf](http://tmtr.org/PDF%20Files/30hr-training.pdf)>. [TRAINING STANDARDS]  

This is a set of training standards developed by the Texas Mediation Trainers Roundtable for family mediation cases. The document lists several outcomes identified by the Academy of Family Mediators and goes on to list and describe six main topics that should be covered by a family mediation training. Suggestions and advice for teaching techniques to be used as also included as well as minimum qualifications for the lead trainer. The standards end with a list of people who endorsed the standards.

Maryland Senior Citizen Mediation Project. Baltimore, MD: Maryland Association of Area Agencies on Aging and the Maryland Department of Aging, 28 April 2005. [REPORT] 

This document was prepared by the Maryland Department of Aging (MDoA) regarding the Maryland Senior Citizen Mediation Project and submitted on April 28, 2005. The document explores the features of the project including background, possible areas for facilitated decision-making or mediation for seniors, considerations regarding mediation in guardianship proceedings, and consultants for the project.

Mediation: Harris County Long Term Care Mediation Pilot Program. Brochure. 2006. The Harris County Long Term Care Mediation Pilot. 5 Sept. 2007 <[http://www.ltcmediation.org/LTC Mediation/brochure2.pdf](http://www.ltcmediation.org/LTC%20Mediation/brochure2.pdf)>.  

This is a brochure from the Harris County Long Term Care Mediation Pilot Program that basically describes what mediation is and how it works. It discusses benefits to mediation as well as what types of disputes can be mediated. The program mission statement is included as well as information about who the program's mediators are.

Melamed, James C., and Robert D. Benjamin. "Probate Mediation Training – Program Description." 2005. Mediate.com. 6 Feb. 2008

<<http://www.mediate.com/pfriendlyds.cfm?id=34044>>.   

This is a short program description for a probate mediation training held by James C. Melamed and Robert D. Benjamin on June 27-30, 2005 in Chicago, Illinois. The description maintains that it will be a four-day course that will include demonstrations, videotape presentations, lecture and discussion, role play exercises, and written materials. Topics covered will include negotiation concepts and skills; mediation strategy and exercises; drafting a party's agreement; ethical considerations; and information specific to trust, estate, and guardianship. Participants will qualify for forty hours of CLE credit.

Rudnick, Alice J. "CDRCP Elder Caregiver & Guardianship Mediation." NYS Unified Court System and the Office of ADR Programs, 2006. [UNPUBLISHED PROGRAM DESCRIPTION]  

This is a brief written description of the NYS Unified Court System Office of Alternative Dispute Resolution Program's implementation of elder caregiver and guardianship mediation services. Program description; goals; objectives for training facilitators, mediators, and partners; and organizational capacity and development are all topics for discussion.

Senior Mediation Workshop. Glen Burnie, MD: Community Mediation Maryland, June 2006. 5 Sept. 2007 <http://www.marylandmediation.org/members/docs/Senior_Mediation.doc>.

[REPORT]   

This is a training packet and report for the Maryland Adult Guardianship and Family Caregiver Mediation Training held from December 12-14, 2005. The document includes training objectives and planning, mission statement of the Maryland Senior Mediation Program, key recommendations, program policies, assessment of mediation services, outreach initiatives, next steps, and more. There is also a training report including a workshop overview, agenda, background and goals, as well as a list of numerous presenters. Many other items covered in this extensive report.

Training Objectives & Planning for Guardianship, Caregiver and General Senior Mediation Implementations. Annapolis, MD: Maryland Adult Guardianship and Family Caregiver Mediation Training, 12-14 Dec. 2005. [TRAINING OBJECTIVES] 8 Feb. 2008
<http://www.marylandmediation.org/members/docs/Senior_Mediation.doc>.   

This informal document was prepared by the Maryland Department of Aging (MDoA) about the organization's Adult Guardianship and Caregiver Mediation Training held on December 12-14, 2005. The document includes training objectives for the training including joint objectives for the entire group and additional objectives for experienced mediators, the aging network, and court staff. Included is a report from the planning session for the training that speaks of key recommendations, underlying philosophies, program policies, scope of services, outreach issues, next steps, and funding needs.

“Training Programs – Mediation: Elder Mediation.” Jan. 2007. Martin Kranitz, Ma.: Mediation Services of Annapolis. 6 Feb. 2008 <<http://www.martinkranitz.com/trainingprograms.htm>>. 

This is an online announcement for a twelve-hour Elder Mediation Training held by Martin Kranitz and Trish Miller of Mediation Services of Annapolis. The program is designed for “people interested in providing elder mediation services” in response to the “ever increasing needs of our aging population. The attached sample syllabus includes an introduction to the aging process, a discussion of aging stereotypes, issues relevant to older persons, ethical considerations for elder mediation, and communication tips.

“Professor Dayton Moderated Five-Part Series on Elder Law.” William Mitchell College of Law. Advertisement. 30 Oct. 2007
<<http://www.wmitchell.edu/news/articles/default.asp?articleId=11173>>.    

This advertisement posted on the William Mitchell College of Law website announces a five-part online seminar on elder law. The moderator of the seminar held from April 24, 2007 through June 19, 2007 was Professor A. Kimberly Dayton, a published expert in elder law and the founder of the National Elder Law Network (NELN). The series covers topics such as elder abuse, grandparents as caregivers, long-term care insurance, special needs trusts, and guardianship and mediation.

D. MISC. MEDIA

Alternative Dispute Resolution Strategies in End-of-Life Decisions. Columbus, OH: The Ohio State university Moritz College of Law. 2007. 12 Nov. 2007

<http://www.moritzlaw.osu.edu/jdr/symposium/2007/jdr_symposium_brochure.pdf>.

[BROCHURE] 

This is a brochure advertising for the Alternative Dispute Resolution Strategies in End-of-Life Decisions Symposium convened by The Ohio State University Moritz College of Law on January 18, 2007. The symposium's purpose was to "explore the challenges of using dispute resolution techniques to help resolve health care conflicts that affect families in crisis as well as legal and medical professionals. The keynote speaker is listed as Carol B. Liebman, a brief agenda is included, and a registration form is also part of the brochure.

Bergman, James A. "Press Release: National Elder Mediation Network Formed at Mini-Summit." Online Press Release. 23 Feb. 2006. The Center for Social Gerontology, Inc.

24 Aug. 2007 <<http://www.tcsg.org/empresrelease.pdf>>. [PRESS RELEASE] 

This is a press release from February 23, 2006 announcing the formation of the "National Elder Mediation Network (NEMN)" at the conclusion of a two-day meeting convened by The Center for Social Gerontology (TCSG) in Georgia from February 9-10, 2006. The press release acknowledges that the group is made up of multi-disciplinary elder mediation professionals who will work to address several concerns about the elder mediation field, as identified by TCSG. The concerns were made into several "umbrella questions" pondered by the group at the Georgia two-day meeting. The formation of the NEMN is the result of addressing these needs of the elder mediation community.

Caring for an Older Person and Facing Difficult Decisions. Ann Arbor, MI: The Center for Social Gerontology, Inc. and the U.S. Administration on Aging, 2003. 24 Aug. 2007 <http://www.tcsg.org/MI/noncourtbrochure_01.pdf>. [BROCHURE] 

This is the second of two brochures developed by The Center for Social Gerontology (TCSG) for use in their pilot caregiver mediation projects in Michigan, Georgia, and Vermont. The brochure was developed “to assist families and professionals in understanding when and how mediation might be used in these situations. The brochures also provide useful information for persons interested in considering establishing similar programs in other geographic locations.” This brochure was designed to be used in non-court situations.

“Conflict at the End of Life.” Feb. 2001. Ian Anderson Continuing Education Program in End-of-Life Care. 12 Nov. 2007 <http://www.cme.utoronto.ca/endoflife/Slides/PPT_Conflict.pdf>. [POWERPOINT]  

This is a Microsoft Powerpoint presentation that covers the topic of conflict at the end of life. A brief description of common causes of conflict for families is included and mediation is presented as a positive option for families facing these situations. Skills for conflict resolution are also included in the powerpoint as well as an explanation of the mediation process. Difficulties for the mediation process are also included including cross-cultural issues and stakeholder attitude.

Considering Guardianship for Someone You Care About? Ann Arbor, MI: The Center for Social Gerontology, Inc. and the U.S. Administration on Aging, 2003. 24 Aug. 2007 <http://www.tcsg.org/MI/courtbrochure_01.pdf>. [BROCHURE]  

One of two brochures developed by The Center for Social Gerontology (TCSG) for use in their pilot caregiver mediation projects in Michigan, Georgia, and Vermont, this brochure was developed “to assist families and professionals in understanding when and how mediation might be used in these situations. The brochures also provide useful information for persons interested in considering establishing similar programs in other geographic locations.” This brochure was designed to be used by court professionals to compare mediation with traditional guardianship methods in a court setting.

Consider Mediation. Ann Arbor, MI: The Center for Social Gerontology, Inc, 2003. [POSTER]



This poster was developed by The Center for Social Gerontology (TCSG) to draw attention to Elder Mediation. The poster urges the reader to “consider mediation” if faced with difficult family care-giving or guardianship conflict. The poster gives the number and website for TCSG if the viewer would like to set up a mediation in the Southeastern Michigan area.

“Eldercare Mediator Questionnaire.” Questionnaire. 7 Sept. 2006. Eldercare Mediators. 17 Jan. 2008 <216.223.162.33/deputyeldercare/images/melindamilberg.pdf>.

[QUESTIONNAIRE]   

This is a questionnaire form prepared by Eldercare Mediators that gives a mediator’s basic information; background; education, associations, and licenses/mediator registries; preferred types of disputes to mediate; mediation training; and the models and procedures used as a mediator. This form could serve to help consumers find the best mediator for their dispute.

Family Caregiver Mediation / Shared Decision Making Services. Ann Arbor, MI: The Center for Social Gerontology, Inc, the Michigan Department of Community Health, and the U.S. Administration on Aging, 2003. [BROCHURE]    

This brochure developed by The Center for Social Gerontology (TCSG) for a “Family Caregiver Mediation / Shared Decision Making Services” demonstration project in several Michigan counties gives a basic explanation of mediation and common issue to be mediated in family caregiver cases. Who the family caregiver mediators are as well as the advantages of mediating family caregiver cases is also explored. Basic caregiver statistics are given for the United States, and referral information is included, too.

Guardianship and Conservatorship Mediation Program: A Private, Confidential Alternative to Court Proceedings. Anchorage, AK: The Alaska Court System, Nov. 2007. 17 Jan. 2008 <<http://www.state.ak.us/courts/forms/pub-37.pdf>>. [BROCHURE] ♥ 💰

This brochure prepared by the Alaska Court System that discusses mediation as an alternative to guardianship or conservatorship explains the reasons why guardianship / conservatorship mediation may be beneficial to the individual in question as well as his / her family, what the basic mediation process entails, what types of cases can be mediated, why mediation may be beneficial specifically for guardianship / conservatorship cases, what happens during the mediation process, the mediation cost, as well as the availability of mediation services in the state of Alaska. Contact information for the Alaska Court System is also available for further information.

Hall, Elizabeth S. "Medicare Beneficiary Complaint Response Program: 'Mediation'." Apr. 2005. Health Now New York, Inc, and IPRO. 13 Nov. 2007

<<http://www.umd.nycpic.com/05conference-Mediation.pdf>>. [POWERPOINT] 🖨️ 🌐 🔧

This is a Microsoft Powerpoint presentation that illustrates that mediation is a advantageous method of handling complains within the Medicare Beneficiary Complaint Response Program. The presentation explains the IPRO company, their objectives, and the community they serve. The Beneficiary Complaint Response program is then explained as well as the implementation of mediation in the Fall of 2003. Mediation is also discussed in detail including benefits, participants, function, mediators, beneficiary advisors, the agreement process, and more.

Liebman, Carol B. "Mediation and the Elderly." Jan. 2007. Columbia Law School. 30 Oct. 2007 <<http://www.law.wfu.edu/prebuilt/aalsMEDIATIONandtheELDERLY2.ppt>>.

[POWERPOINT] 🖨️

This is a short Microsoft Powerpoint presentation created by a Columbia Law School professor and included as a supplement to the "Mediation and the Elderly" series presented by the Wake Forest University School of Law. The powerpoint's four slides include a title page, a percentage exercise about outcome prediction, a running list of how bioethics mediation differs from classical mediation, and a list of the limitations of mediation.

Love, Lela Porter, and Stewart E. Sterk. "Mediation Clauses in Wills." Jan. 2007. Cardozo Law School and the Association of American Law Schools. 30 Oct. 2007

<http://www.law.wfu.edu/prebuilt/MediationClausesinWills.ppt>. [POWERPOINT]  

This Microsoft Powerpoint presentation created by two Cardozo Law School professors and included as a supplement to the "Mediation and the Elderly" series presented by the Wake Forest University School of Law focuses on the issue of preserving family assets and reputation, promoting family harmony, and protecting against litigation as ultimate goals of probate mediation. States with probate mediation programs are listed. Obstacles to probate mediation are also discussed as well as enforcement mechanisms for agreements and other drafting issues.

Mediation: A New Way to Resolve Healthcare Concern. Little Rock, AR: Arkansas Foundation for Medical Care, July 2003. 6 Feb. 2008

http://www.afmc.org/documents/pdf_files/mediation/mediat_handout.pdf.

[BROCHURE] 

This is a one-page brochure that answers some basic questions that a Medicare patient may have regarding the Medicare Mediation Complaint Resolution Program. Questions include "What is mediation?," "How does mediation affect my benefits under Medicare?," and "How will mediation affect my relationship with my doctor or healthcare plan?" Contact information is provided.

Mediation FAQ's: Frequently Asked Questions by Physicians / Providers about Mediation in the Medicare Beneficiary Complaint Response Program. Little Rock, AR: Arkansas Foundation for Medical Care, July 2003. 6 Feb. 2008

http://www.afmc.org/documents/pdf_files/mediation/phys_q&a.pdf. [BROCHURE] 



This is a brochure developed by the Arkansas Foundation for Medical Care that discusses sixteen questions frequently asked by physicians and providers about mediation in the Medicare Beneficiary Complaint Response Program. Examples of questions include "who makes sure that the terms of a mediation for a beneficiary complaint are complied with?"; "Will the QIOs mediate cases involving potential medical malpractice?"; and "has mediation been used before with any success between doctors and patients or is this an experiment?" Contact information for further questions is also included.

Mediation Resource Packet for Physicians / Providers. Little Rock, AR: Arkansas Foundation for Medical Care (AFMC), and the Centers for Medicare & Medicaid Services, July 2003. 14 Nov. 2007
<http://www.afmc.org/documents/pdf_files/mediation/med_prov_pack.pdf>. [RESOURCE PACKET]  

This is a packet of information compiled by the Arkansas Foundation for Medical Care with the intent of educating physicians and providers about mediation. The packet is divided into four sections, the first describing the nature of mediation including a basic definition, the issue of confidentiality and how mediation differs from arbitration. The potential effects and advantages of mediation in healthcare complaints are included in the second section of the packet, and the third section contains frequently asked questions by physicians and providers about mediation in the Medicare Beneficiary Complaint Response Program (MBCRP). The final section gives basic background for the MBCRP.

Mediation Services for Older Adults: Conflict? Try Mediation! Norristown, PA: The Montgomery County Mediation Center, 2000. 8 Feb. 2008 <http://www.mediation-services.org/forms/elder_brchr7.pdf>. [BROCHURE] 

This is a brochure by the Elder Mediation Program of the Montgomery County Mediation Center (MCMC) of Norristown, Pennsylvania. It discusses the Elder Mediation Program, how it works, how it helps, and what the benefits are.

Mewhinney, Kate. "North Carolina and Mediation of Guardianships." Nov. 2005. Wake Forest University School of Law. 30 Oct. 2007
<<http://www.law.wfu.edu/prebuilt/NCandMediationofGuardianships.ppt>>. [POWERPOINT]    

This Microsoft Powerpoint presentation created as a supplement to the "Mediation and the Elderly" series presented by the Wake Forest University School of Law centers on mediation of guardianships in the state of North Carolina. The topics discussed in the presentation include who set guardianship mediation standards for the state, who may mediate, a brief history, what training entails for mediators, the process of guardianship mediation, duties of mediation stakeholders, the mediation agreement, and examples of three NC cases.

Neace, William Patrick. Medicare Quality-of-Care Reviews. Portland, OR: Acumentra Health, Oct. 2007. 6 Feb. 2008 <<http://www.acumentra.org/downloads/mbpp/qofc-review-beneficiaries.pdf>>. [INFORMATIONAL SHEET] 

This is a sheet developed by Acumentra Health that describes the purpose of the Portland, Oregon non-profit as reviewing “beneficiary complaints about the medical quality of any care that Medicare covers.” The process that Acumentra Health follows after receiving a complaint is discussed, and if a problem with medical quality is found, a full review process is recommended. The sheet explains that mediation is also offered, mostly for cases that involve poor communication; the basic Medicare mediation process is included as well as a flow-chart that illustrates Acumentra Health’s proscribed process after they’ve received a complaint.

“National Elder Mediation Network Mission Statement.” Feb. 2006. The Center for Social Gerontology and the National Elder Mediation Network. 21 Dec. 2007 <http://www.nlada.org/Training/Train_Civil/Equal_Justice/2006_Materials/101_2006_Cutrona_Handout_1>. [MISSION STATEMENT] 

This is the mission statement of the National Elder Mediation Network. The purpose of the group’s formation as well as the stated mission of the group are included. Contact information is given.

Pope, Thaddeus Mason. “Limits of Mediation in End-of-Life Disputes.” Jan. 2007. University of Memphis School of Law. 12 Nov. 2007 <http://www.thaddeuspope.com/images/OSJDR_01-18-07_PDF_.pdf>. [POWERPOINT] 

This Microsoft Powerpoint presentation looks into the limits of mediation in end-of-life disputes. The presentation acknowledges the breadth and success of mediation in helping families make end-of-life decisions but focuses on “futility disputes.” Irreconcilability in futility disputes is broken down into three categories: scope, reasons, and consequences.

Stop! You're Both Right! Washington DC: American Association of Retired Persons, 1994.

[BROCHURE] ✂ 🌐

This is a brochure designed to supplement the manual and video of the same name. The brochure briefly describes mediation and how it can be beneficial for older persons. A short list of advantages and disadvantages of mediation and caveats for the use of mediation are given. Suggestions for finding mediation resources in the reader's community are discussed and information about becoming a mediator is also covered.

Trippe, Blair, and Arline Kardasis. "What Makes Planning for Seniors One of the Biggest Hot-Button Issues Facing Individuals, Families, and Professionals Today?" Online Press Release. 27 Sept. 2004. Elder Decisions. 30 Oct. 2007

<http://www.elderdecisions.org/docs/ED_Press_Release.pdf>. [PRESS RELEASE] ♥ 🌐

This is a press release on the private website of the Elder Decisions organization that discusses why planning for seniors is one of the most important topics to face individuals, families, and elder care professionals today. The topics covered include a description of Elder Decisions, a short description of the impact of elder care on peoples' lives, reasons to choose mediation, how the mediation process works, and specifics about the professionals on the Elder Decisions team.

Waldman, Ellen. "Mediating Health-Care Disputes at the End of Life." Oct. 2004. Thomas Jefferson School of Law. 30 Oct. 2007

<<http://www.law.wfu.edu/prebuilt/MediatingHealthCareDisputes.ppt>>. [POWERPOINT]



This Microsoft Powerpoint presentation created by a Thomas Jefferson School of Law professor and included as a supplement to the "Mediation and the Elderly" series presented by the Wake Forest University School of Law touches on the sensitive issues that involve making end-of-life decisions including where social and legal norms are unclear, ethics considerations, and a discussion of the concept of "futile care." Mediation's role in this health care area is described in detail including when it is appropriate, benefits of mediation, an understanding of the issues that bring a need for mediation in this context.

“What Makes Planning for Seniors one of the Biggest Hot-Button Issues Facing Individuals, Families, and Professionals Today?” Online Press Release. 27 Sept. 2004. Elder Decisions. 14 Dec. 2007 <http://www.elderdecisions.org/docs/ED_Press_Release.pdf>. [PRESS RELEASE] 

This is a press release from a private mediation firm that address why planning for seniors is such an important topic in today’s world. Information about the company and staff as well as more general senior mediation information is given including the impact of elder care, why one should choose mediation, and how mediation works.

Wood, Erica F. “Is Senior Mediation on the Radar Screen?” June 2006. ABA Commission on Law and Aging and Maryland State Bar Association. [POWERPOINT]      

This is a Microsoft Powerpoint presentation designed to discuss common disputes affecting older persons in the areas of senior housing, long-term care decision-making, neighborhood disputes, eldercare / family situations, bioethics, and many others. Presentation includes a brief discussion regarding capacity as well as a history of elder mediation.