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PRESS RELEASE

TCSG ANNOUNCES PUBLICATION OF "EVALUATION OF MEDIATION AS A MEANS OF RESOLVING ADULT GUARDIANSHIP CASES"

Adult guardianship mediation – a facilitated, non-adversarial negotiation in guardianship settings that takes place in addition to, or in lieu of, formal legal proceedings – appears to be effective in helping disputing parties reach agreements in three-quarters of the cases in which it is used. Participants are well satisfied with the mediation process and its outcomes. In addition, participants, program administrators, and mediators believe that mediation in adult guardianship cases is effective in finding better or more satisfactory resolutions such as fewer guardianships, limited rather than full guardianships, or less restrictive alternatives to guardianship.

However, guardianship mediation programs have so far tended to be small in scope and require careful planning and oversight, as well as a good relationship with the court system and other referral sources, in order to sustain themselves over time.

These are the conclusions reached by a study of adult guardianship mediation in Ohio, Florida, Wisconsin, and Oklahoma by The Center for Social Gerontology (TCSG) in Ann Arbor, Michigan. The report, funded by a grant from the State Justice Institute (SJI), presents a detailed description of adult guardianship mediation programs in the four states, followed by a summary of the results of a participant survey performed at two of the sites, and ends with a discussion of the conclusions and recommendations reached by the study.

Since the 1970s, TCSG has been actively involved in studying existing guardianship systems and has joined with numerous others to strengthen the rights and protections of adults, particularly older adults, subject to guardianship petitions.

Having been among those who worked for statutory reforms, TCSG is fully committed to the protections afforded by them, but, as Co-Director Penelope Hommel states, "We also came to believe that for many of these cases, the adversarial model is not without significant flaws – foremost of which are the economic and emotional costs to the

parties and the magnification, rather than resolution, of differences among them. The adversarial model typically results in a 'win-lose' situation and may foreclose the possibilities of dialogue among the parties, who often are family members who must continue to interact and address the difficult issues and problems underlying the guardianship petition."

TCSG saw mediation as a potentially valuable alternative to the limitations of the adversarial model. The entry into a dispute of a neutral mediator, without decision-making or reporting powers, in a confidential, informal setting was considered a possible approach to maintaining the autonomy of the respondent by making him or her a vital part of the decision-making process. TCSG posited that the use of mediation might help families explore alternatives to guardianship and that by including the older person, family, and other interested parties in the decision-making process, it could potentially encourage consensus building and foster the preservation of relationships among family and friends. It was hoped that mediation would facilitate improved communication in families where changing roles and family dynamics may block constructive decision-making and would help families move beyond the presenting legal issues and assist them in identifying, addressing and resolving underlying family issues and problems.

Having recognized the potential of mediation, TCSG undertook to pilot and assess the viability of this alternative approach to adult guardianship cases. Over the course of nine years and three grant programs, TCSG trained mediators in adult guardianship mediation and helped establish adult guardianship mediation projects in eight sites. According to Co-Director Penelope Hommel, as TCSG continued to pursue the development and testing of guardianship mediation and saw evidence of its value to the parties and the courts and of its use in a growing number of locations, it became aware of the need for a formal assessment of its value and workability. In 1999, TCSG received funding from SJI to undertake a formal evaluation that would allow it to gather solid data on existing guardianship mediation programs and provide guidance to courts and others that are considering establishment of new programs or improvement of existing programs.

The study, "Evaluating Mediation as a Means of Resolving Adult Guardianship Cases," sought to determine the efficiency, effectiveness and replicability of mediation of adult guardianship cases. It posed the following questions: How do mediated guardianship programs work? What are their structures, processes, and procedures? Do they work as intended? Are they efficient? Are they effective? The study, which began in February 1999 and ended in July 2001, has two major design components: (1) a descriptive analysis of the operation of four guardianship mediation programs in Ohio, Florida, Wisconsin and Oklahoma; and, (2) an assessment of their impact.

"Evaluating Mediation as a Means of Resolving Adult Guardianship Cases" is available at the TCSG web site: www.tcsg.org , by clicking on "Mediation and Aging," and is also available at minimal cost to cover copying and shipping by contacting The Center for Social Gerontology, 2307 Shelby Ave., Ann Arbor, Michigan 48103. (734) 665-1126