

# THE SKETCHLEY LAW FIRM, P.A.

Providing Compassionate Support & Guidance Through Elder Law & Guardianship  
Florida Bar Board Certified In Elder Law

## ELDER MEDIATION

August 2007

As the population ages and faces long term care decisions, elder mediation is becoming an attractive, cost-effective alternative for resolving disputes over those decisions.

In Florida, “mediation” is a process whereby a neutral mediator facilitates the resolution of a dispute between two or more parties. It is an informal and non-adversarial process. The objective is to help disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The mediator merely assists the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

### **Issues Appropriate for Elder Mediation**

As individuals age, they and their families address issues ranging from driving to paying for long term care.

Elder mediation is available to families in litigation and to families who are not but are still facing disagreements on long term care issues. Elder mediation can help families resolve many issues, including health care decisions, care-giving burdens, financial decisions, public benefits and support decisions, living arrangements, care-giver payment, communications, family arrangements, decision-making authority, property maintenance, and finding legal alternatives to all of the above.

In cases where the elder is involved in a guardianship proceeding, a number of legal issues are ripe for mediation, including the extent of guardianship, care plans, who

will be guardian, property maintenance, methods of accounting, ward’s rights, use of professionals, less restrictive alternatives and visitation.

### **Benefits of Elder Mediation**

Mediation allows families the opportunity to resolve issues privately, without government interference and for far less than costly court proceedings. Through mediation, the parties set their own agenda, and are not limited by how issues may be framed (if even addressed) by a court. Resolving disputes brings families together and allows the parties to save money and time. Families can focus attention and resources on the individual needing care.

Elder mediation enjoys a high success rate in Florida. Moreover, even if not all issues are resolved, participants in mediation are usually satisfied with the process, especially when elder mediation occurs early.

### **How to Participate in Elder Mediation**

When parties are in litigation, they may be referred to mediation by a judge or special hearing master. Parties may also voluntarily engage in mediation at any time, even before litigation arises.

In selecting a mediator, parties should look for mediators with elder law experience and good problem solving skills.

*If you would like one of our attorneys to come and speak to your group or organization about this topic, please contact Tracy Powell at (850) 894-0152. Past newsletters can be found at [www.sketchleylaw.com](http://www.sketchleylaw.com).*