

STATE OF MICHIGAN PROBATE COURT COUNTY OF _____	ORDER OF REFERRAL TO ELDERCARING COORDINATION (EC)(1)	CASE NO. and JUDGE _____
Court Address _____		Court Telephone No. _____

In the matter of _____

ORDER OF REFERRAL TO ELDERCARING COORDINATION

THIS MATTER having come before the Court upon:

- Stipulation of _____, or
- Petition by _____,

for referral to eldercaring coordination, the Court having reviewed the Petition and the Court file, taken the information presented, and being otherwise duly advised in the premise, ***FINDS:***

Appropriateness of Process. This matter is appropriate for eldercaring coordination and it is in the best interest of the elder: _____.

History of Elder Abuse/Domestic Violence. Based upon testimony and evidence presented, a review of related court records, or other representations made to the Court, the Court has determined:

- There is no known history of verified elder abuse, neglect, or exploitation.
- There is no known history of domestic violence.
- There has been a history of verified elder abuse, neglect, or exploitation.
- There has been a history of domestic violence:
 - Each participant has had an opportunity to consult with an attorney, domestic violence advocate or elder advocate before providing consent; and
 - The elder, the elder’s legal representative, if any, and each participant have freely and voluntary consented to this referral.

It is therefore, **ORDERED:**

1. **Eldercaring Coordination Participants.** The following are ordered to participate in the eldercaring coordination process:

Name:	Contact Information:
_____	_____
_____	_____
_____	_____

2. **Additional Participants.** The Eldercaring Coordinator (EC) may invite additional participants as necessary without further Court Order.

3. **Meetings.** EC may recommend and, unless otherwise directed by the Court, can invite additional individuals that may provide information, support, or other assistance in the eldercaring coordination process. Unless the elder and the participants agree otherwise, the EC may make the final decision on who to include in the process. The EC shall determine the schedule and location for meetings.
4. **Release of Information.** The participants, independently or through their attorneys, must provide the EC with copies of all pleadings and Orders filed in this case; pleadings and Orders related to any domestic violence, elder abuse, neglect, or exploitation case; and any other pleadings and Orders requested by the EC.
5. **Domestic Violence Safeguards.** The participants shall adhere to all provisions of any Protective Order, or conditions of bail, probation, or a sentence arising from criminal proceedings. The following safeguards must be implemented to protect the participants during the process of eldercaring coordination in addition to any safety measures the EC deems necessary throughout the process of eldercaring coordination.
 - None are necessary at this time.
 - No joint meetings.
 - No direct negotiations.
 - No direct communications.
 - Other: _____

6. Fees and Costs for Eldercaring Coordination.

a. Financial Ability to Pay

- The Court has determined that the participants have the financial ability to pay the eldercaring coordination fees and costs. The EC shall set their own fees.
- The Court has determined that one or more of the participants are indigent, or the parties do not have the ability to pay, but there are public or private funds available to pay the indigent participants' allocated portion of the fees.
- The Court has determined that the parties do not have the ability to pay the full EC fees, and request that the EC fees be set accordingly.

b. The Court allocates payment of fees and costs for eldercaring coordination as follows:

7. **Expectation of Good Faith Participation:** If a participant has caused the EC to expend an unreasonable and unnecessary amount of time, that participant may be solely responsible for payment of the EC's fees and costs for such time expended. The EC may bring this to the Court for a hearing. Failure to pay the EC's fees and costs in a timely manner may subject the participant to sanctions for contempt of Court.

8. **Confidentiality.** Except, as otherwise provided in this section, all communications made by, between, or among the participants and the EC during eldercaring coordination sessions are confidential. However, the EC has a duty to report any suspected abuse, neglect or exploitation as required or permitted by applicable law. The EC and participants may not testify or offer evidence about communications made during eldercaring coordination sessions, except if:
- a. It is necessary to identify, authenticate, confirm, or deny a written waiver/release entered into by the participants during eldercaring coordination;
 - b. The testimony or evidence is necessary to identify an issue for resolution by the Court;
 - c. The testimony or evidence is limited to the subject of a participant's adherence to the Order of Referral to ElderCaring Coordination or other Orders of the Court relating to the eldercaring coordination process.
 - d. The EC is reporting that the case is unsafe or no longer appropriate for eldercaring coordination;
 - e. The EC is reporting that they are unable or unwilling to continue to serve and that a successor EC should be appointed;
 - f. The EC is reporting they are not qualified to address certain issues in the case and a more qualified EC should be appointed;
 - g. All participants and the EC agree that the testimony or evidence will be permitted; or
 - h. The testimony, evidence, or report is necessary to protect any person from current or future acts that would constitute a crime, or abuse, neglect, or exploitation of an elder.
 - i. Ordered to do so by the Court.

All communications permitted through the exceptions listed above are to be narrowly construed and limited to their stated purpose. All other communications during the eldercaring coordination sessions, not related to the stated exception, are to remain confidential.

9. **Agreement on Non-confidentiality.** The participants can agree to waive confidentiality of specific or all communications. The waiver must be in writing, signed by all the participants and their respective attorneys. The waiver of any confidentiality shall be filed with the Court and a copy served on the participants and the EC. Any participant may revoke their waiver of confidentiality by providing written notice signed by the participant. The revocation and Proof of Service shall be filed with the Court and a copy served on the participants and the EC. The EC may submit a written report to the Court regarding any non-confidential matter relating to the eldercaring coordination process.
10. **Testimony and Discovery.** An EC shall not be called to testify or be subject to discovery unless the Court makes a prior finding of good cause. A participant must file a Petition, alleging good cause as to why the Court should allow the EC to testify or be subject to discovery. The requesting participant shall serve the Petition and Notice of Hearing on all participants and the EC. The requesting participant shall initially be responsible for the EC's fees and costs incurred as a result of the Petition, unless determined otherwise by the Court.
11. **Discharge of EC:** The presiding judge may remove the EC from the case, and upon a finding of good cause, may refer the complaint to the regulatory body overseeing any professional license or certification held by the EC. The Court may also appoint a substitute EC. The EC's

services may not be terminated by any of the participants, or at the request of all participants, without an Order by this Court.

12. **Stipulation:** Any written stipulation of the participants to utilize the eldercaring coordination process filed with this Court is incorporated into this Order.
13. **Reservation of Jurisdiction.** This Court specifically reserves jurisdiction to enforce or modify the terms and conditions of this Order.
14. Eldercaring Coordination Process, Roles and Responsibilities attached.

Date

Judge

Bar No.

ELDERCARE COORDINATION PROCESS, ROLES, AND RESPONSIBILITIES

This is information regarding the eldercare coordination process. An Order has been entered appointing an Eldercare Coordinator (EC), to help facilitate communication between the elder and their support system (family, friends, caregivers).

1. **Eldercare Coordination Process.** Eldercare coordination is an alternative dispute resolution (ADR) process during which an EC assists elders, legally authorized decision-makers, and others who participate by Court Order or invitation. The eldercare coordination process is designed to resolve disputes in a manner that respects the elder's need for care, dignity and safety.
2. **Eldercare Coordinator.** An EC is an impartial third-party whose role is to assist the participants by:
 - a. Facilitating more effective communication, negotiation, and problem-solving skills;
 - b. Offering resources for elders;
 - c. Facilitating the creation, modification, or implementation of an eldercare plan, if such a plan is necessary to reach a resolution;
 - d. Making recommendations for resolutions; and
 - e. Making decisions within the scope of a court order or with the participants' prior approval.
3. All confidentiality provisions in applicable statutes continue to apply to the records whenever court access to them is allowed. In addition, in any instance of elder abuse, neglect or exploitation, the identity of the person reporting the abuse, neglect, or exploitation is to remain confidential and not be released.
4. **Role, Responsibility, and Authority of EC.** The EC shall have the following role, responsibility, and authority:
 - a.—Facilitating the ability of the elder and other eldercare coordination participants to work collaboratively in a way that respects the safety and dignity of the elder. The EC shall initiate referrals for services and investigations and direct participant planning and communication as necessary and appropriate.
 - b.—Assisting the participants in creating, modifying and implementing any eldercare plan.
 - e.—Developing strategies and educating the participants to more effectively:
 - i.—Focus on the needs and care of the elder;
 - ii. Minimize conflicts;
 - iii. Communicate and negotiate with each other;
 - iv. Understand the effects of conflict on the elder and each other;
 - v. Disengage from one another when engagement leads to conflicts and non-cooperation;
 - vi. Identify the sources of their conflict, work individually and jointly to minimize conflict, and lessen its harmful effects on the elder; and
 - vii. Protect the elder from the threat of being caught in the middle of disputes

regarding their care, needs and safety.

- d. Assisting the elder and participants in identifying and utilizing resources that may help them resolve issues regarding the care, safety, and well-being of the elder.
 - e. Providing information to healthcare practitioners and other professionals when the EC deems it is reasonable and necessary.
 - f. Teaching eldercaring coordination participants about communication skills, the aging process, and how to better handle issues facing elders.
5. **Communication:** The EC may communicate with participants separately or together, in person, by telephone, or by any other means, unless otherwise prohibited by court order or applicable law. The EC shall devise detailed guidelines or rules for communication and interaction among the participants and practice those rules with the participants.
6. **Complaints Procedure:** A participant may make a written complaint to an EC regarding the EC's conduct. After the EC has reviewed the written complaint with the participant, and if the complaint has not been resolved to the participant's satisfaction, that participant may seek to discharge the court-appointed EC by filing a Petition with the Court.