

**Form: A**

In re the Guardianship of: \_\_\_\_\_ IN THE CIRCUIT COURT OF THE  
\_\_\_\_\_ JUDICIAL CIRCUIT IN AND FOR  
OR \_\_\_\_\_ COUNTY, STATE  
Petitioner,  
and DIVISION:  
CASE NUMBER:  
SECTION:  
Respondent, \_\_\_\_\_ /

**ORDER OF REFERRAL TO ELDERCARE COORDINATOR**

THIS MATTER having come before the Court upon:

- the Court's own Motion;
- Motion of the elder;
- Motion of parties other than the elder;
- Stipulation of the elder and other parties, or
- Motion by \_\_\_\_\_,

for Appointment of an Eldercare Coordinator, the Court having reviewed the Motion and the Court file, taken the testimony presented, considered argument of counsel, and being otherwise duly advised in the premise, ***FINDS:***

**A. Eldercare Coordination Process.** Eldercare coordination is a dispute resolution process during which an Eldercare Coordinator assists elders, legally authorized decision-makers, and others who participate by court order or invitation to resolve disputes with high conflict levels in a manner that respects the elder's need for autonomy and safety.

**B. Appropriateness of Process.** This matter is appropriate for eldercare coordination and it is in the best interest of the elder: \_\_\_\_\_.

**C. Eldercare Coordinator.** An Eldercare Coordinator is an impartial third person whose role is to assist the parties by:

- Facilitating more effective communication, negotiation, and problem-solving skills;
- Offering education about elder care resources;
- Facilitating the creation, modification, or implementation of an elder care plan if such a plan is necessary to reach a resolution;
- Making recommendations for resolutions; and
- Making decisions within the scope of a court order or with the parties' prior approval.

**D. Selection of Eldercare Coordinator.** The following Eldercare Coordinator was selected by  parties' agreement  the court:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email: \_\_\_\_\_

**E. 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 history of verified elder abuse, neglect, or exploitation.
  - There is no history of domestic violence.
- OR:
- There has been a history of verified elder abuse, neglect, or exploitation
  - There has been a history of domestic violence.
- If there has been a history of domestic violence:
- Each party has had an opportunity to consult with an attorney or domestic violence or elder advocate before this Court has accepted the parties' consent; and
  - The elder, the elder's legal representative, if any, and each party participating have freely and voluntarily consented to this referral.

All confidentiality provisions in applicable statutes or Family Rules of Procedure continue to apply to the records made available to the court. The identity of any person reporting the abuse, neglect, or exploitation is not to be released.

It is therefore, **ORDERED**:

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

Elder: \_\_\_\_\_

Legally authorized decision-makers, if any : \_\_\_\_\_

Additional parties, if any: \_\_\_\_\_

Participants: \_\_\_\_\_

The Eldercaring Coordinator may invite additional participants as necessary without further court order.

The parties are required to contact the Eldercaring Coordinator within ten (10) working days of the date of this Order to schedule the first appointment.

a. The Eldercaring Coordinator is appointed to serve the Court for an initial period of \_\_\_\_\_ months (not to exceed two years). The Eldercaring Coordinator shall file a response to this Order within 30 working days accepting or declining the appointment. At any time, any party or the Eldercaring Coordinator may apply directly to the Court for a discharge and shall provide the parties and counsel with notice of the application of discharge. A hearing is scheduled for \_\_\_\_\_ in order to review the need for an extension of the Eldercaring Coordinator's term before it expires.

b. The parties or their attorneys must provide to the Eldercaring Coordinator copies of all pleadings and orders filed in this case, as well as such pleadings and orders related to domestic violence, elder abuse, neglect, or exploitation, and any other pleadings and orders requested by the Eldercaring Coordinator related to eldercaring coordination.

2. **Meetings.** The Eldercaring Coordinator may recommend and, unless otherwise directed by the court, may invite others to participate in the eldercaring coordination process. Should there not be an agreement on who to include in the process, the Eldercaring Coordinator may make the decision to invite someone if the eldercaring coordinator believes that may provide information, support, or other assistance in facilitating dispute resolution. The Eldercaring Coordinator shall determine the schedule and location for appointments.

3. **Domestic Violence Safeguards.** The parties shall adhere to all provisions of any injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings. In addition to any safety measures the Eldercaring Coordinator deems necessary, the following safeguards must be implemented to protect the parties during the process of eldercaring coordination:

- None are necessary.
- No joint meetings.
- No direct negotiations.
- No direct communications.
- Other: \_\_\_\_\_

4. **Role, Responsibility, and Authority of Eldercaring Coordinator.** The Eldercaring Coordinator shall have the following role, responsibility, and authority:

a.—Facilitating the ability of the elder and other eldercaring coordination participants to work collaboratively in a way that respects the safety and autonomy of the elder. The Eldercaring Coordinator shall, for those purposes, initiate referrals for services and investigations if necessary and make recommendations to the parties as he/she deems appropriate.

b. Assisting the parties in creating, modifying and implementing an elder care plan, if necessary to reach a resolution.

- c. Educating the parties and developing strategies 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 another party when engagement leads to conflicts and non-cooperation;

- vi. Identify the sources of their conflict with each other and work individually and/or jointly to minimize conflict and lessen its deleterious effects on the elder; and
- vi. Allow the elder to live free from the threat of being caught in the middle of disputes regarding his or her care, needs and safety.

d. Assisting the elder and parties in identifying and utilizing resources that may assist them in resolving issues regarding the care, safety, and well-being of the elder.

e. Reporting or communicating with the Court concerning non-confidential matters as provided in paragraph 10 of this order. In the event that the Eldercaring Coordinator is unable to adequately perform the duties in accordance with the court's direction, the Eldercaring Coordinator shall file a written request for status conference.

f. Providing information to health care practitioners and other professionals when the Eldercaring Coordinator deems it is reasonable and necessary.

g. Teaching eldercaring coordination participants communication skills, principles of adult development, and issues facing elders as they age.

5. **Communication:** The Eldercaring Coordinator may communicate with the parties and participants separately or together, in person, by telephone, or by any other means, unless otherwise prohibited by court order or applicable law. The Eldercaring Coordinator shall devise detailed guidelines or rules for communication and interaction among the participants and practice those rules with the participants.

6. **Releases of Information:** The Eldercaring Coordinator is entitled to communicate with the parties, participants, health care providers, psychosocial providers, guardian, and any other third party deemed necessary by the Eldercaring Coordinator for the eldercaring coordination process. The parties will cooperate with the Eldercaring Coordinator and shall execute any necessary releases for communications related to the elder. In the event that any psychological evaluations, guardian reports, or any other reports related to the elder are prepared for any party or court ordered participant, the Eldercaring Coordinator may review such evaluations or reports. Furthermore, to the extent that any such evaluation or report is made confidential by any prior Order of the Court, then this Order shall authorize the release of said evaluation or report to the Eldercaring Coordinator.

7. **Scope of Authority.** The Eldercaring Coordinator shall be authorized to make limited decisions within the scope of this Order of Referral regarding:

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With expressed written consent of the elder and parties designated in this court order, the Eldercaring Coordinator may have additional temporary decision-making authority to resolve specific, non-substantive disputes between the parties until such time as a court order is entered modifying the decision; or make recommendations to the court concerning modifications to orders related to the resolution of disputes regarding the care of the elder.

- a. **Limitation of Authority.** The Eldercaring Coordinator shall not have decision making authority to resolve substantive disputes between the parties. A dispute is substantive if it would:

- Change the determination of capacity or incapacity of the elder;
  - Change the nature and scope of the existing authority of a legally authorized decision-maker ;
  - Change the residence of the elder;
  - Delegate any rights of the elder to another person.
- b. The Eldercaring Coordinator shall not make a substantive recommendation to the Court unless the Court, on its own motion or joint motion of the parties, determines that:
- There is an emergency affecting the safety of the elder'
  - The recommendation would be in the best interest of the elder;
  - The parties agree that any eldercaring coordination communications that may be raised to support or challenge the recommendation of the Eldercaring Coordinator will be permitted.

**8. Fees and Costs for Eldercaring Coordination.**

- a.  The parties have consented to this referral to eldercaring coordination.  
 This order is without consent of the parties, but the court has determined that the parties have the financial ability to pay the eldercaring coordination fees and costs.  
 This order is without the consent of the parties. The Court has determined that one or more of the parties are indigent, but there are public and/or private funds available to pay the indigent parties' allocated portion of the fees.

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

\_\_\_\_\_ % shall be paid by \_\_\_\_\_.  
 \_\_\_\_\_ % shall be paid by \_\_\_\_\_.  
 \_\_\_\_\_ % shall be paid by \_\_\_\_\_.  
 \_\_\_\_\_ % shall be paid by \_\_\_\_\_.

Other: \_\_\_\_\_

c. If a party has caused the Eldercaring Coordinator to expend an unreasonable and unnecessary amount of time that party may be solely responsible for payment of the Eldercaring Coordinator's fees and costs for such time expended. Failure to pay the Eldercaring Coordinator's fees and costs in a timely manner may subject the party to sanctions for contempt of court.

d. The Eldercaring Coordinator shall not commence the eldercaring coordination process until he/she is satisfied with the terms and conditions of payment for his/her services. Further, the Eldercaring Coordinator shall not perform nor continue to perform the eldercaring coordination services in this case unless all of his/her fees and costs are paid by the parties as ordered, and, in the event of nonpayment, the Eldercaring Coordinator shall file a Request for Status Conference, and the Court will address the issue of non-payment of fees and costs.

**9. Confidentiality.** Except, as otherwise provided in this section, all communications made by, between, or among the parties, participants and the eldercaring coordinator during eldercaring coordination sessions are confidential and privileged. However, the Eldercaring Coordinator has a duty to report any suspected abuse, neglect or exploitation required or permitted by applicable law. The eldercaring coordinator, each party designated in this order appointing the coordinator, and other eldercaring coordination participants may not testify or

offer evidence about communications made by, between, or among the parties and the Eldercaring Coordinator during eldercaring coordination sessions, except if:

- a. It is necessary to identify, authenticate, confirm, or deny a written agreement entered into by the parties during eldercaring coordination;
- b. The testimony or evidence is necessary to identify an issue for resolution by the Court without otherwise disclosing communications made by any party, participant or the Eldercaring Coordinator;
- c. The testimony or evidence is limited to the subject of a party's ~~to~~ adherence with the Order of Referral to Eldercaring Coordinator or other orders of the Court that are pertinent to the eldercaring coordination process.
- d. The Eldercaring Coordinator is reporting that the case is unsafe or no longer appropriate for eldercaring coordination;
- e. The Eldercaring Coordinator is reporting that he or she is unable or unwilling to continue to serve and that a successor Eldercaring Coordinator should be appointed;
- f. The Eldercaring Coordinator is not qualified to address or resolve certain issues in the case and a more qualified Coordinator should be appointed;
- g. All parties and the Eldercaring Coordinator agree that the testimony or evidence be permitted; or
- h. The testimony, evidence, or report is necessary to protect any person from current future acts that would constitute a crime, or abuse, neglect, or exploitation of an elder.

**10. Agreement on Nonconfidentiality.** The parties can agree to waive confidentiality or privilege of a specific communication or all communications. The waiver must be in writing, signed by the parties and their respective counsel, if any. The waiver of any confidentiality or privilege shall be filed with the Court and a copy served on the Eldercaring Coordinator. Any party may revoke his or her waiver of confidentiality or privilege by providing written notice signed by the party. The revocation shall be filed with the Court and a copy served on the parties and the Eldercaring Coordinator. The Eldercaring Coordinator may submit a written report or other written communication regarding any nonconfidential matter to the court.

**11. Testimony and Discovery.** An Eldercaring Coordinator shall not be called to testify or be subject to the discovery rules of this circuit or jurisdiction unless the court makes a prior finding of good cause. A party must file a motion, alleging good cause why the court should allow the Eldercaring Coordinator to testify or be subject to discovery. The requesting party shall serve the motion and notice of hearing on the Eldercaring Coordinator. The requesting party shall initially be responsible for the Eldercaring Coordinator's fees and costs incurred as a result of the motion.

**12. Withdrawal Procedure.** With Court approval, the Eldercaring Coordinator may withdraw from the role of Eldercaring Coordinator. The Eldercaring Coordinator shall apply directly to the Court with a request to be discharged, and shall provide notice to the participants and their counsel of the request to withdraw.

13. **Complaints Procedure:** A party or participant may make a written complaint to an Eldercaring Coordinator regarding the Coordinator's conduct. After a party reviews a written complaint with the Eldercare Coordinator, if the complaint has not been resolved to the party's satisfaction that party may seek to terminate the services of a court-appointed Eldercaring Coordinator by filing a motion with the Court. The presiding judge may remove the Eldercaring Coordinator from the case, and upon a finding of good cause, may refer the complaint to the state's, province's, or jurisdiction's regulatory body overseeing any professional license or certification held by the Eldercaring Coordinator. The court may also appoint a substitute Eldercaring Coordinator. The Eldercaring Coordinator's services may not be terminated by any of the parties, or at the request of all parties, without order of this Court.

14. **Stipulation:** any written stipulation of parties and participants to utilize the eldercaring coordination process filed with this court is incorporated into this Order.

15. **Reservation of Jurisdiction.** This Court specifically reserves jurisdiction to enforce and/or modify the terms and conditions of this Order.

DONE AND ORDERED in \_\_\_\_\_ County, State,  
on this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Circuit Judge

Copies to:

Name of Party:  
Counsel for Party; Address of Counsel

Name of Party:  
Counsel for Party; Address of Counsel

Pilot Project Administrator:

Other: