

2019

## Clinical Mediation: Advocating for a New Role

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### Recommended Citation

Hammonds, D. S., Jordan, N. A., & Block, J. L. (2019). Clinical Mediation: Advocating for a New Role. *The Journal of Counselor Preparation and Supervision*, 12(2). Retrieved from <https://repository.wcsu.edu/jcps/vol12/iss2/7>

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## Clinical Mediation: Advocating for a New Role

### Abstract

Mediation training standards are inconsistent and fail to focus on the pivotal skill set of addressing, understanding, and working with underlying emotions that shape conflict and may prevent mutual goal attainment. The purpose of this article is to explore skills essential to counseling and mediation and advocate for the potential benefits of formally training counselors to facilitate the process of mediation and conflict resolution.

### Keywords

mediation, conflict resolution, counselor education, counseling

Currently, the field of mediation lacks unification and effective training for practitioners (Hodges, 2009). Counselors, trained in the art of communication, present with a unique set of skills that have the potential to enhance the mediation process and its positive outcomes via basic counseling skills and increased emotional intelligence (Goleman & Boyatzis 2002; Holtzworth-Munroe, Applegate, Rudd Brittany, Freeman, & D'Onofrio, 2013). This article advocates for the potential benefits of formally training counselors to facilitate the process of conflict resolution and mediation.

### **Mediation**

Mediation is a form of alternative dispute resolution (ADR) in contrast to and in lieu of litigation (Udoh & Sanni, 2015). Mediation provides an opportunity for two or more related parties in conflict to voluntarily meet and collaborate, under the guidance of a mediator, and aims to produce a fair, satisfactory, and mutually beneficial agreement for all individuals involved (Boardman, 2013; Udoh & Sanni, 2015). Mediation is intended to bring misunderstandings to the forefront in order to address them in detail, with the end goal of reconciliation or mutual goal attainment. Overall, mediation is a proactive method of diffusing emotional conflict that equips parties with effective tools for dispute resolution (Bultena, Ramser, & Tilker, 2011). Mediation services, viewed positively by the court system, provide vital resource management (Bush, 2008; Charkoudian, 2010). Within the past decade, ADR has become a rapidly expanding field, taking the form of a variety of models, and is facilitated by a range of agencies in government and private sectors (Counsel, 2010).

Currently, programs accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP; 2016) aim to meet the needs of potential clients by training students in one or more of seven entry-level specialty areas including: (a) addictions; (b) career;

(c) clinical mental health; (d) clinical rehabilitation; (e) college counseling and student affairs; (f) marriage, couple, and family; and (g) school counseling. Similarly, the Commission of Accreditation of Marriage and Family Therapy Education (COAMFTE; 2015) accredited Marriage and Family Therapy programs require curriculums grounded in systems theory in working with addiction, substance use, and therapy with individuals, couples, and families. These areas serve as frameworks for guiding minimum requirements for student training in accredited programs. It is argued that the guidelines for these training areas potentially began as common areas of practice, unstructured without training standards. The authors believe that mediation represents a developing area of practice, currently with unstructured training standards. Although many counselor trainees are required to select one specialty area, they are encouraged to use elective courses to enrich their preparedness for other situations they may encounter in the field. The Bureau of Labor Statistics (2015) reported that mediation is a rapidly growing field. There are graduate-level mediation courses for clinicians; however, they tend to be for marriage and family therapists. In addition, while there are departments that house CACREP and/ or COAMFTE accredited programs, many trainees across the country do not have access to graduate level mediation training, even though there is documented need. A foundational element of mediation training is emotional intelligence (EI). While this concept may not be a formal inclusion in counselor training, it is a necessary skillset for successful counselors and mediators alike. In the following section, EI is briefly reviewed as a framework that underscores counselors' unique ability to facilitate the process of mediation.

### **Counselor Emotional Intelligence**

Emotional intelligence, originally proposed by Salovey and Mayer, describes individuals' overarching methods of emotional problem solving and ways of knowing (1990). Researchers have

since refined their understanding of the concept, describing it using the four-branch model of emotional intelligence. According to this model EI refers to individuals': a) ability to perceive emotions; b) facilitate thought by using emotions; c) understand emotions; and d) manage emotions in oneself and others (Mayer, Caruso, & Salovey, 2016). Perhaps the most important concept elucidated by this research is the developmentally progressive nature of the branches. For example, the ability to perceive emotion is the most basic skill while managing emotions in self and others is the most complex. Interestingly, researchers report that the mental skills and abilities that support EI are unknown; however, they suggest a list of types of reasoning consistent with each branch. Types of reasoning for each branch include:

- a) Perceive emotions in other people through their vocal cues, facial expression, language, and behavior;
- b) Generate emotions as a means to relate to experiences of another person;
- c) Determine the antecedents, meanings, and consequences of emotions; and
- d) Evaluate strategies to maintain, reduce, or intensify an emotional response and effectively manage others' emotions to achieve a desired outcome (Mayer, Caruso, & Salovey, 2016, p. 294).

Counselors, undergo extensive training that develops each branch represented in the model. Assignments such as self-reflection, supervised practice, and clinical supervision help counselor trainees finetune emotional reasoning skills. Such assignments, combined with the foundational knowledge of counseling theory and case conceptualization undergirds the unique skill set of evaluating clients' emotional and psychological needs in the moment in order to reach shared goals, essentially the goal of mediation.

### **The Case: Couples Counseling with Blake and Shawn**

The following brief case vignette is presented with the goal of highlighting when counselors may encounter instances in which they may be effective mediators. Blake and Shawn

began seeing Dr. James, a Licensed Professional Counselor, after Shawn discovered Blake's infidelity. While Blake claimed that the infidelity was an isolated incident, the couple spent more than two years in counseling exploring issues of infidelity, trust, and repairing the relationship. Shawn decided that she would never fully trust Blake again and began divorce proceedings. Blake was saddened by the idea of divorce, but felt that they worked hard to repair their relationship; therefore, he understood her decision and was okay with amicable separation of property and community. Due to Dr. James' well-established rapport with the couple and boundaries of competence, he wanted to avoid potential boundary issues and ethical violations, thus he referred Blake and Shawn to another clinician and colleague, whom was certified to provide mediation, to facilitate this intervention. Having detailed background information about Blake and Shawn, contextual understanding of emotional responses to the impending separation, and a positive therapeutic alliance Dr. James was disappointed by having to terminate with the couple at this point. He believed that he could help facilitate a smooth dissolution of their relationship and assets.

Dr. James is in a unique position to continue supporting Shawn and Blake because of their established rapport. Unfortunately, this dissolving couple will have to end their work with Dr. James, find a mediator, and relive any related trauma by retelling their stories to an entirely new individual. Dr. James built a strong relationship with the couple; however, he did not have the training and credential to facilitate the mediation process. He possesses the skill set necessary to provide mediation but this is a lost opportunity for the clinician and the couple. Perhaps Dr. James felt that he was too close to the couple to be neutral in his work as a mediator; however, in similar cases a referral would still be a pertinent choice due to lack of training and certification.

## **Counselors Embracing a New Role**

There are many instances that may result in clients shifting from counseling to mediation. In the example above the couple realized they wanted to amicably end their relationship and sought mediation services. In addition to divorce, mediation may address conflicts of relationship, data, interest, structure, and value. Thus, counselors may perform mediation with clients whom did not receive mental health counseling prior to entering the mediation process such as businesses or community members. Additionally, if a counseling relationship has already begun, it is believed that best practice may dictate that clinicians must close any existing counseling relationship prior to transitioning into mediation in order to avoid dual relationships and role confusion. Of particular interest to counselors, mediation may revolve around issues of domestic relationships including child welfare, open adoption, parenting plans, estate planning, negotiating the cost and responsibility of the care of elderly parents among siblings, and community-neighborhood disputes.

Cornerstone concepts of both mediation and counseling include personal connection, communication, and strategic striving toward goal attainment. The field of counseling may benefit from increased engagement in the process of mediation. The Bureau of Labor Statistics (2015) projected a nine percent growth in mediation positions between 2014 and 2024 and about 8,400 total jobs in 2014. Mediators work in many environments such as state and local government, legal services, religious, civil and other professional organizations. Education is necessary to become a mediator; however, training programs are inconsistent and range from certificates to doctoral degrees in dispute or conflict resolution. In addition, few candidates receive a degree specific to the field of conflict resolution. Instead, potentially successful candidates often obtain

training specific to their field of expertise and supplement their program by obtaining training or certification in mediation.

Certification requirements vary, with no national license, vague state licensure requirements in private settings, and only 20-40 hours required for training to work in government settings (Bureau of Labor Statistics, 2015). Currently there are few dedicated university-associated training programs and limited mediation training offered within counselor education programs. Counseling and mediation share transferable skills such as: a) strong communication skills, b) reflections, c) goal setting, d) comfort with emotion, e) strategic aligning, f) brokering the attainment of mutually agreed upon goals, g) focus on outcomes, h) positive therapist position, and i) summarization (Bultena, Ramser, & Tilker, 2010).

Perhaps the most important skill a counselor has is the ability to remain “centered” when all around them is in chaos. This centeredness is not detachment or disinterest, rather, it is an ability to remain differentiated in order to control emotional presentation while at the same time acknowledging their existence and power (Bultena, Ramser, & Tilker, 2010). For a mediator, the most effective skill is an ability to find compromise. In intense disagreements based on reasonable and unreasonable concerns, there often appears to be very little middle ground for cooperation. A successful mediator is able find that space in a way that helps couples or groups of individuals reach their goals.

Counselors are trained specifically to deal with intense emotion. The bedrock of most psychotherapy models is centered on understanding and evaluating past traumas and painful relationship patterns in order to find new, more positive ways of performing current relationships (Garrett, 2016; Geller, 2015). Looking into these past relationships and relational patterns requires a professional be able to defuse, deflect, and or use that intense emotion in a way that is productive



(Garrett, 2016; Geller, 2015). Yet, most mediators are not trained in this way. While mediators excel at understanding legal and material decisions, they often lack training to navigate intense emotional distress presented when parties are dissolving a relationship or seeking an outcome that represents their individual goals. In this way counselors offer a unique ability to address a wide range of disputes and engage disputing parties that most mediators do not (Strickland, 2006). The potential of such a unique perspective by counselors suggests including a unit focused on introductory mediation principles as part of primary counseling theory, techniques, or helping relationships courses. Additionally, counselor training programs may be wise to develop mediation “tracks” for trainees so that they may expand their practice upon initial licensure. In no way does this mean to imply that current mediators are insufficient, rather, counselors qualified to also function as mediators will provide additional resources for the growing numbers of families suffering through relationship dissolution (Fine & Harvey, 2006).

### **Orientation and Skills**

Mediators utilize a gamut of skills including research of facts, law-based facilitation, rationalization, and effective communication (Macfarlane, 2012). Facilitators of mediation should possess a common set of skills including rapport building, emotional intelligence, verbal and nonverbal tracking of important issues, and strategic maintenance of the balance between the voices of involved parties (Bultena, Ramser, & Tilker, 2011). Mediators specialize in establishing: a) trust and commonality, b) maintaining a neutral stance, c) objective evaluation, d) reconstructing perspectives, e) problem solving, and f) improvisation (Stokoe & Sikveland, 2016).

Counselors utilize similar skill sets and it is believed that licensed practitioners whom are ethically trained through higher education according to CACREP standards are grounded in similar mission, goals, and objectives outlined in core courses. As detailed in the CACREP Standards,

counselors are equipped to perform multiple roles and functions according to specialty (CACREP, 2016). Counselors value integrated care promoting collaboration between human services to advocate for holistic needs addressed through mental health care.

Basic counseling skills include: a) active listening, b) reframing, c) use of I-statements, d) paraphrase and summarizing with a focus on understanding, e) assessing and addressing underlying psychological mechanisms through diagnosis, and e) treatment planning (Hodges, 2009; Ivey & Daniels, 2016). Through the lens of emotional intelligence, counselors can help to break-down labels, assumptions and stigma through more concrete language and constructive behavior. Counselors are trained to uphold confidentiality and are guided by the American Counseling Association (ACA) code of ethics (Boardman, 2013).

### **Counselors as Mediators**

Although not yet a formal inclusion in counselor education programs, counselors may seek conflict resolution and mediation training through alternate sources. In fact, according to the Association for Conflict Resolution (ACR; 2011), individuals whom have earned a high school diploma are eligible to gain certification (ACR, 2011). The percentage of clinicians holding both a professional counseling licensure and certification in mediation is unknown; however, it is clear that earning a mediation certification does not qualify practitioners to counsel.

In the mediation process, the clinician acts less as a “mental health counselor” potentially focused on exploring the client’s background, emotional experiences, and recurrent concerns in order to reach the goal identified by the client. Instead, the counselor may act more as an agent for all parties involved with the goal of coming to a mutual agreement that represents each party’s interests (Bultena, 2010). Counselors are trained to strategically align with their clients with a mutually agreed upon goal in mind. Thus, counselors performing mediation use rapport-building

and basic helping skills to build a working alliance and highlight commonality and strengths in order to increase the client's' relationship to one another with the purpose of relationship dissolution or mutual goal attainment (Udoh & Sanni, 2015). In addition to balancing the concept of neutrality with strategically aligning, the counselor performing mediation must minimize intense emotion (Bultena, Ramser, & Tilker, 2010). In counseling, working with emotion is a healthy means of processing experiences and reaching goals whereas in mediation, it can be an impediment of reconciliation (Johnson, 2012). Goals of counseling may include: (a) exploring each partner's experience of infidelity; (b) examining how background and interactional patterns impact each partner's experience of the problem; (c) determining relationship goals moving forward; and (d) supporting each partner in removing emotional and behavioral barriers to shared goals. Skills required for this intervention may include: (a) communication skills; (b) goal setting; (c) focus on outcomes; (d) comfort with emotion; and (e) neutrality with strategic alignment. In comparison, goals of mediation include: (a) learning a brief history of mediation goals; (b) keeping focus of intervention present centered; (c) highlighting the needs of each party; (d) brokering future rules of engagement based on identified needs; and (e) facilitating discussion of division of tangible items based on identified needs. Similarly, skills required to facilitate mediation are: (a) communication skills; (b) goal setting; (c) focus on outcomes; (d) comfort with emotion; (e) neutrality with strategic; and (f) alignment.

Currently, significant debate exists between counselors and mediators regarding similarities and differences between practices and approaches of the two fields and the degree of overlap (Boardman, 2013). Counseling and mediation share transferable skills such as strong communication skills, reflections, goal-setting and comfort with emotion/emotional intelligence. In addition, they have the ability to help break down psychological barriers, strategically align,

facilitate the attainment of mutually agreed upon goals, and focusing on outcomes and summarization (Macfarlane, 2012). These skills exemplify counselors as ideal mediators.

While acting as a mediator the counselor must keep in mind each intervention and its philosophy and goals (Macfarlane, 2012). Depending on the approach, the goal of counseling can differ from working to make internal changes (psychotherapy), advocating for change in relational dynamics, interactional patterns and societal structure (systemic therapy), and negotiating mutually accepted behavioral plans (family therapy). While counseling is generally more holistic than outcome-oriented, solution-focused brief therapy (SFBT) seems to be most congruent with the goals of mediation among counseling theories with its short-term time frame, present-focused orientation, and emphasis on meeting concrete goals (Boardman, 2013).

Stokoe and Sikveland (2016) suggest that mediators ask solution-focused questions (SFQs) as a mechanism to produce client-generated solutions. SFQs are rooted in SFBT and involve a two-part sequence where the mediator summarizes client stances and reconstructs mutual concerns into open-ended, solution-focused inquiries. SFQs serve to both acknowledge the voice of each client as well as establish common ground from which to build goal-oriented, strength-based solutions. To date, it is apparent that solution-focused approaches in conjunction with mediation practices have rarely been studied (Stokoe & Sikveland, 2016). The authors assert that the combination of solution-focused approaches and mediation practices warrant further study.

Fundamental counseling principles highlighted in the ACA 2014 Code of Ethics and the American Association for Marriage and Family Therapy (AAMFT) Code of Ethics (2015) significantly correlate with the core values of mediation reflected in the ACR 2011 Model Standards for Mediator Certification Programs (ACR, 2011). Overlapping core principles of counselors, family therapists, and mediators include the importance of fostering autonomy,

nonmaleficence, beneficence, collaboration, scope of competence, justice, fidelity, and veracity. In addition, counselors, family therapists, and mediators strive to enhance evidence-based practice, embrace diversity through a multicultural approach, and practice in an ethical and competent manner (AAMFT, 2015; ACA, 2014; ACR, 2011). That said, there are other ethical implications of clinical mediation such as ensuring that counselors stay within their scope of practice and do not facilitate conflict resolution or mediation unless they have successfully completed the necessary training.

While there are clear connections in ethical codes between ACA, AAMFT, and ACR, some challenges remain. It will be important that counselors maintain clear boundaries with clients and do not engage in multiple interventions with the same client/s in order to avoid dual relationships. This could have been the case for Dr. James as outlined in the case vignette. If Dr. James had successfully completed mediation training and had initially outlined mediation as a possibility in the case of relationship dissolution, he possibly could have initiated a new contract with the couple. Further, as counselors and family therapists acting as mediators becomes commonplace, it may result in lack of clarity around a trained mediator's role. A trained mediator must understand their scope of competence and not cross the boundary into providing psychotherapy for their clients. Finally, it may prove valuable for a group of experienced mediators, counselors, and family therapists to collaborate and build an ethics addendum that provides guidance to psychotherapists interested in pursuing mediation work. This would be a useful resource for that may curb future ethical violations.

### **Need for Unified Certification**

Conflict resolution and medication training programs offered through universities are difficult to find, consequently failing to keep up with the rate that mediation has been integrated

into society as a whole (Hodges, 2009). Currently, mediators have a multi-professional identity and do not have a universally accepted set of practices nor ethical standards (Hodges, 2009). Graduate level programs are offered throughout the country, yet no apparent universal accrediting body exists to validate and assess for ethical and effective practices. Over twenty arbitration and mediation associations can be found within the United States, although it is unclear if one main governing body presides.

The ACR offers an elaborate set of model standards for mediator certificate programs; however, the structure of programs is presented as a set of encouraged standards rather than criteria for accreditation. The ACR utilizes performance-based assessments and instruments to select, train and evaluate mediators as fundamental components of certification (ACR, 2011). The ACR maintains prior academic experience through higher education is not necessary to promote high quality mediation practices; however, this claim needs more robust support and the referenced 1989 study is notably outdated.

The Family Law Education Reform Project supports interdisciplinary evidence-based practice within law schools, as such they have recently begun emphasizing psychological understanding and a greater focus on the practicality of the use of psychology in producing more effective dispute resolution outcomes (Holtzworth-Munroe, Applegate, Rudd Brittany, Freeman, & D'Onofrio, 2013). The ability to comprehend the role of personal, emotional, and relational issues is highlighted as a core competency within the Model Standards for Mediation Certification Programs published by the ACR (2011).

While recognition of the need for alternative dispute resolution practices and knowledge of human behavior is growing, a significant need for unified certification is simultaneously emerging. Boardman (2013) supports this need through his identification of training and comfort

level with conflict, communication skills, and psychological issues as pivotal factors in mediation intervention success. Boardman describes himself as a social psychologist whom specializes in conflict resolution and contends that counselors should “not describe themselves as mediators” without proper training and certification (Boardman, 2013, p. 100).

### **Advocacy and Integration**

Mediation has become increasingly more common in a variety of areas including within government, college campuses, communities, cultural organizations, businesses, and marriages (ACR, 2011). Campus mediation, conflict resolution within the university setting, serves as a trailblazer for integration of alternative dispute resolution. The university setting consists of a variety of organizations, levels of hierarchy, and types of relationships resulting in an evolving and ongoing need for an organized, proactive means of peacekeeping devoid of formal sanctions as the need is significantly apparent and ongoing, especially as an alternative to involvement of the court-system (Hodges 2009; Udoh & Sanni, 2014). Particular examples of the role of campus mediation include multicultural issues, roommate disagreements, religious concerns, political strife, and athletic-related disputes.

In addition, the location of mediation services is important in regards to advocacy for counselors as mediators. Mediation services, ideally would be located in the same building where counseling services are located so as to affirm and strengthen the connection between conflict resolution, non-judgment, stress-reduction, well-being and mental health (Hodges, 2009). Having mediation and counseling services in the close vicinity would also help to support mutual referrals. In other words, a counselor who specializes in mediation would be able to recognize underlying psychological concerns and make a referral to the counseling center for mental health services and vice versa.

Advocacy for the importance of both counseling and mediation services is key as stigma is often associated with receiving help for personal and interpersonal matters. Instead of viewing counseling and mediation services as a way to “fix” something that is “wrong,” it is advantageous to normalize the need for these services. A shift in thinking must occur towards mediation as a means promoting well-being and relationship maintenance, especially as stressors emerge and circumstances challenge the status quo (Boardman, 2013).

### **Clinical Mediation**

Mediation occurs in many environments and is provided by a range of skilled facilitators from varied backgrounds. These facilitators possess a common set of skills including emotional intelligence (EI), dialectical scanning, assessment of markers of rapport, and strategic maintenance of the balance between the voices of involved parties (Boyatzis, 2001; Bultena, 2011). Multiple researchers reference EI as a key asset of mediation, where high levels of EI promote trust, given the emotional tools are present to recognize and manage emotion, so as to produce mutually satisfactory outcomes (Boyatzis, 2001; Bultena, 2011). Goleman and Boyatzis (2001) have identified four factors constituting the foundation of EI which include self-awareness involving the recognition of personal emotions, strengths and limitations, and their impact; self-management involving emotional self-control and adaptation ability; social-awareness involving awareness of the feelings of others and empathetic connection; and social management involving the ability to bond and persuade. Together, these factors offer a formula for opening communication, allowing for improved self-disclosure, feedback, and shared discovery (Bultena, 2011).

While a broad range of facilitators may use these skills, there are others skills that cannot be learned through traditional mediation training, such as general helping skills. Mediation training, typically encompassing a minimum of 40-clock hours offered by community, agency, or



university providers, may not teach skills necessary for trustful and ethically compassionate practice. Current methods of mediation training may offer some of the technical skills necessary to guide opposing parties to positive outcomes. To do this successfully, a competent mediator must have advanced knowledge of applicable state and federal laws and an ability to recall this information as conflicting parties will have many questions as to how they might resolve the situation quickly and decisively. Unfortunately, a depth of knowledge and resources available may not always be enough to guide persons to a desired outcome (Macfarlane, 2012).

Counselors, trained in the art and science of empathy and the balance of challenge and rapport, can offer additional skill sets that may augment the traditional practice of mediation (Holtzworth-Munroe, Applegate, Rudd Brittany, Freeman, & D'Onofrio, 2013). Therefore, it is proposed that counselors, with the addition of their unique skill set, may facilitate clinical mediation. Clinical mediation, a term created by the authors, refers to the process of providing clinically enhanced mediation services with the aim of reaching fair and mutually agreed upon goal attainment and division of property and community. Clinical mediation represents an additional service counselors are uniquely qualified to provide. Further, it is believed that helping skills and conflict resolution training is germane to the facilitation of both the process of counseling and mediation; yet, mediators lack helping skills training.

Within counselor education programs mediation tracks, concentrations, or certificates may provide an avenue for developing mediators with more complete skill sets. Mediation training in other fields is unstandardized; yet, it will be important to conceptualize the most appropriate structure of this training for the counseling field. Due to the exploratory nature of this topic the specific structure of this training can only be speculated at this time; however, it is recommended that factors such as minimum training requirements for mediators, CACREP and other relevant

accreditation standards, and effective use of resources be considered when creating mediation training tracks within counselor education programs.

In addition, as mentioned above CACREP and COAMFTE develop frameworks for guiding minimum requirements for student training within accredited programs. What is the role of these bodies in beginning to develop standards for mediation training? If CACREP accredited programs serve as the “gold standard” for counselor clinical training then the organization has a unique opportunity to lead the field toward envisioning a specialty area with the potential to impact counselor career outlook, accessibility of this in-demand service nationwide, and growth of the field.

Mediation services may be provided, in a manner similar to the way mental health services are in some programs that incorporate on-site training clinics with the goal of offering current students opportunities for supervised practice and serving the campus and local community. Establishing this service alongside those focused on mental health, backed by the university, may work to destigmatize help-seeking for personal and interpersonal matters and normalize the need for these services. On-site mediation services may even allow program leaders to make inroads with campus partners such as academic affairs, student housing, and student conduct, addressing minor student concerns potentially reducing caseload for other dispute resolution entities.

The following section briefly builds on the example of Blake and Shawn and highlights the similarities and differences among these interventions.

### **The Case Revisited: Mediation with Blake and Shawn**

Blake and Shawn were referred to a counselor trained in mediation and conflict resolution within the same group practice with Dr. James. The couple is on good terms, yet they are having trouble agreeing on fair division of property and community. The couple’s shared possessions

include: a SUV, sedan, water ski, timeshare at the beach, and 6-year-old dog. In addition to tangible property the couple wishes to negotiate issues of boundaries/community including post-separation navigation of shared friend groups, etc.

### **Role of Clinical Mediator**

A clinical mediator working with Blake and Shawn may more easily help them achieve relationship dissolution by: a) learning a brief history of the mediation goals, b) keeping the focus of the intervention present-centered, c) learning potential barriers of goal attainment, d) navigating emotion in a present-centered and productive manner without ignoring it e) and neutrally exploring potential solutions while ensuring that both parties feel as though their interests are represented. For example, clinicians are trained to deal with the intense emotion present in in conversations around separation of assets and spaces. A clinical mediator trained in Solution Focused Brief Therapy would have the communication skills necessary to reframe conversation about past pain to focus on a future of amicable separation (De Shazer et al., 2007). Finally, a clinical mediator will focus on language and how it creates a separating parties' reality (Gergen, 2009). A focus on language and holding multiple perspectives simultaneously will allow the clinical mediator to better align with both Blake and Shawn.

### **The Future of Counselors as Mediators: Clinical Mediation**

The potential for counselors becoming trained in conflict resolution is promising. That stated, there are also pitfalls that may limit counselors' ability to function effectively in mediation. Perhaps the most basic and obvious pitfall for having counselors act as mediators is that it potentially muddies public understanding of what counselors do. Misperceptions about the primary role of counselors could dilute their role in private practices and community health agencies opening a Pandora's Box of other activities outside their scope of practice. Additionally,

there is wisdom in the adage “stay in your lane”, denoting that mediators should mediate, counselors should counsel. It may be argued that there is no need to confuse the roles of counselors and mediators since each effectively do their respective jobs. The clearest answer to these concerns is that clients know the best course of action for their lives. Counselors trained in conflict resolution may offer options of treatment to their clients and they will choose what services are most appropriate. In addition, it is advantageous for counselors to continue to advocate for the profession by establishing that counseling is a dynamic field in which practitioners work with their clients to reach mutually agreed upon mental health, academic, emotional, professional, and social goals by facilitating theoretically-sound interventions. Conflict resolution, is another type of intervention that counselors can be trained to provide while remaining consistent with the ethical standards and identity of the profession.

There are also special considerations counselors interested in mediation may want to consider. Counselors must be trained in the legal ramifications of mediation. A counselor considering mediation processes without legal understanding may confuse future litigation and cause more stress to a dissolving family or disputing parties. There is training available for persons interested in mediation. For example, in states like North Carolina, a brief training program can certify a professional to become a mediator and there is a considerable financial cost for trainings. Independent training facilities offer courses in civil superior court mediation, clerk of court mediation, and family and divorce mediation, with the most affordable of these options costing about \$1200 (Mediation Inc., 2009). If counselors are interested in facilitating mediation, it might be incumbent upon counselor education programs to begin to include mediation and conflict resolution as a part of the curriculum, potentially by organizing optional concentration or certificate programs. Before deciding on whether or not counselors can effectively perform ADR,

it may be worthwhile to measure a mediator's performance and client satisfaction. Further, there may be a need to measure and compare effectiveness and client satisfaction of mediators and counselors.

Counselors possess unique qualities that can enhance the mediation process and its outcomes. It is believed that counselors may augment skill sets and employment prospects by becoming trained in mediation. Yet, further study is necessary to refine, build upon, unify and apply the highly transferable skill set of counselors to the realm of mediation. Finally, there may be some value in training mediators in basic helping skills to augment their ability to achieve successful outcomes.

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