

## **USERS' GUIDE**

### **THE MHP IN THE COLLABORATIVE PROCESS**

by

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Divorce encompasses legal, financial and emotional issues. The decision to divorce is not an easy or a simple task. It is one of the most emotionally stressful events that an individual or family will experience. There are conflicting emotions that are experienced and changes that occur on multiple levels. It is for many, a time of loss which begins with the acknowledgment that the marriage is over and continues as the family recovers, reorganizes and restructures relationships. It is both an end and a beginning and holds sadness and hope for those involved.

There are many ways to divorce, most of them involve painful changes to the family structure often superimposed in hostile, stressful circumstances with long-term consequences both financially and emotionally – especially to the people that are the most vulnerable. The Collaborative Process offers an alternative, non-litigated, non-adversarial process. It utilizes an interdisciplinary team made of specially trained professionals who meet in a series of team meetings to help the couple resolve their issues in a civil and respectful manner. The team is made up of two attorneys, one neutral mental health professional and one neutral financial professional who work with the couple in a series of joint meetings. The couple voluntarily agrees not to litigate obviating the need for depositions, subpoenas or opposing experts. The attorneys advocate for their clients, but they share in the common goal of facilitating mutual agreement between the parties. Financial costs may be lower and the emphasis is on cooperation, family privacy and the best interest of the children. Either party may terminate the process at any time and pursue traditional litigation in which case the entire team is disqualified from representing the parties in subsequent litigation. The Collaborative Process allows the professionals to guide the couple through their divorce in an environment grounded in good faith, cooperation, integrity, honesty, transparency and professional ethics. The couple is empowered to determine their own unique resolution, collateral damage is significantly minimized and post-divorce familial relationships are enhanced relative to the traditional divorce process.

The emotional component that accompanies the divorce process is by far the most powerful force that steers the course of the divorce. Cool heads may understand the financial consequences of dividing up the family fortune or doing what is in the best interest of the children, but those pesky emotions often blur the way.

That is why the inclusion of mental health professionals in the divorce process is one of the most essential components that allows for this transition to proceed and minimize the stress and pain. The immediate involvement of the MHP in the divorce process is finally being understood and acknowledged by attorneys as a necessary factor for the successful completion of the divorce. It is not simply the skill set of the MHP who understands human behavior and can model good communication skills. The job of the MHP is much more encompassing and multi-faceted. Although not providing therapy, the traditional role of mental health professional, they can screen for many issues that can potentially derail a negotiation: addictions, domestic violence, psychological domestic abuse, shadow people and power imbalances. Their understanding of underlying dynamics can help prepare both the clients and attorneys for real interest based negotiations to settle issues and move the clients forward. They often function as the case manager when referrals for child issues, addictions or mental illness are needed.

The MHP can intervene in a multitude of situations from simple misunderstandings in and among the team members to real crisis situations. They can help with problem solving, creative thinking, and be a support system for both the professionals and the clients. Along with the other team members, they can help facilitate the meetings and be the voice of safety and neutrality.

No other member of the team can caucus with each attorney, financial professional and the clients in a variety of situations and dyads. They can help structure the flow of the process because their lack of alignment and neutrality creates a safe place for understanding the underlying currents to be processed before they disrupt the case.

Here are some ways to utilize the skills of the MHP:

**Step One:** It is essential to involve the MHP from the beginning of the process. If you present the MHP as an integral part of the Collaborative model, the clients should accept the MHP as an essential member of the team. Their involvement with the clients before the first Team meeting is especially helpful in creating a safe and comfortable first contact.

**Step Two:** Listen carefully to the feedback from the MHP. The interview that the MHP conducts individually with both clients before the first team meeting is of great significance. Its real purpose is to get to know the clients, to understand their dynamics and communication skills, and to gauge their readiness to proceed in the Collaborative Process.

MHPs are trained to assess for personality traits that may play out in the interactions during the process, influences that will steer the direction of the divorce and circumstances that often appear in the interplay of all the individuals of the team. It is a complex dance of many personalities that must come together and work together to a satisfactory end. The feedback from the MHP is critical for the attorneys to gain further insight about their clients.

**Step Three:** Ask the MHP questions about the real needs, interests and expectations of the clients. Involve them in meetings with the clients when there is an “emotional” issue to be resolved or send them to talk or meet with the MHP. Include the MHP in the attorney/client pre-team preparatory meetings about the agenda. MHPs can anticipate and defuse potential problems that may get triggered by issues discussed during the team meeting.

**Step Four:** MHPs can prepare the Parenting Plan which gives the MHP the opportunity to gain even more helpful information and “smooth” over many issues. A final approval of the Parenting Plan is, of course, always the responsibility of the attorneys and the couple, but the MHP can help with that issue. If time sharing and associated child support become major issues, the team can work with the couple on a resolution receiving input from the neutral financial professional.

**Step Five:** Use the Debrief. MHPs are great listeners. If you are feeling frustrated with any aspect of the Collaborative Process, venting about the issues can be great relief and often times, clarifies the problem. Discuss with them feelings about the other client and the other attorney. We are all human and have our own triggers which sometimes intrude into the interactions during a team meeting. Once identified, a problem is usually solvable. If the MHP is not meeting your expectations, speak up and discuss the issue with the team.

**Finally:** The MHP is the most under-utilized professional on the team. Most MHPs have training as Family Mediators and as a Parent Coordinator. Hopefully, by understanding what the MHP can do in the course of the Collaborative Process, this User Guide will help guide you and improve their usage in the process. MHPs can be a “bridge over troubled waters”.\*

\* Simon and Garfunkel