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Diminished Capacity: Guiding Clients Through Difficult Decisions

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Why this topic?

The aging population is growing- 10,000 babyboomers a day turning 65

As advisors, your longtime clients are aging

As advisors, you are :

- *Questioning your role and responsibility*
- *Concerned regarding danger and safety of client*
- *Concern regarding boundaries and limitations*

Introduction

How do we advise clients and families dealing with diminished capacity?

Who do we turn to?

Assembling a team of professionals

Develop a plan of action

What is an Aging Life Care Manager?



Typically, social workers, nurses, gerontologists or other health /mental health professionals



Knowledgeable: specialized training, experience in the field, familiar with community resources



Follows a strict Code of Ethics & Standards of Practice

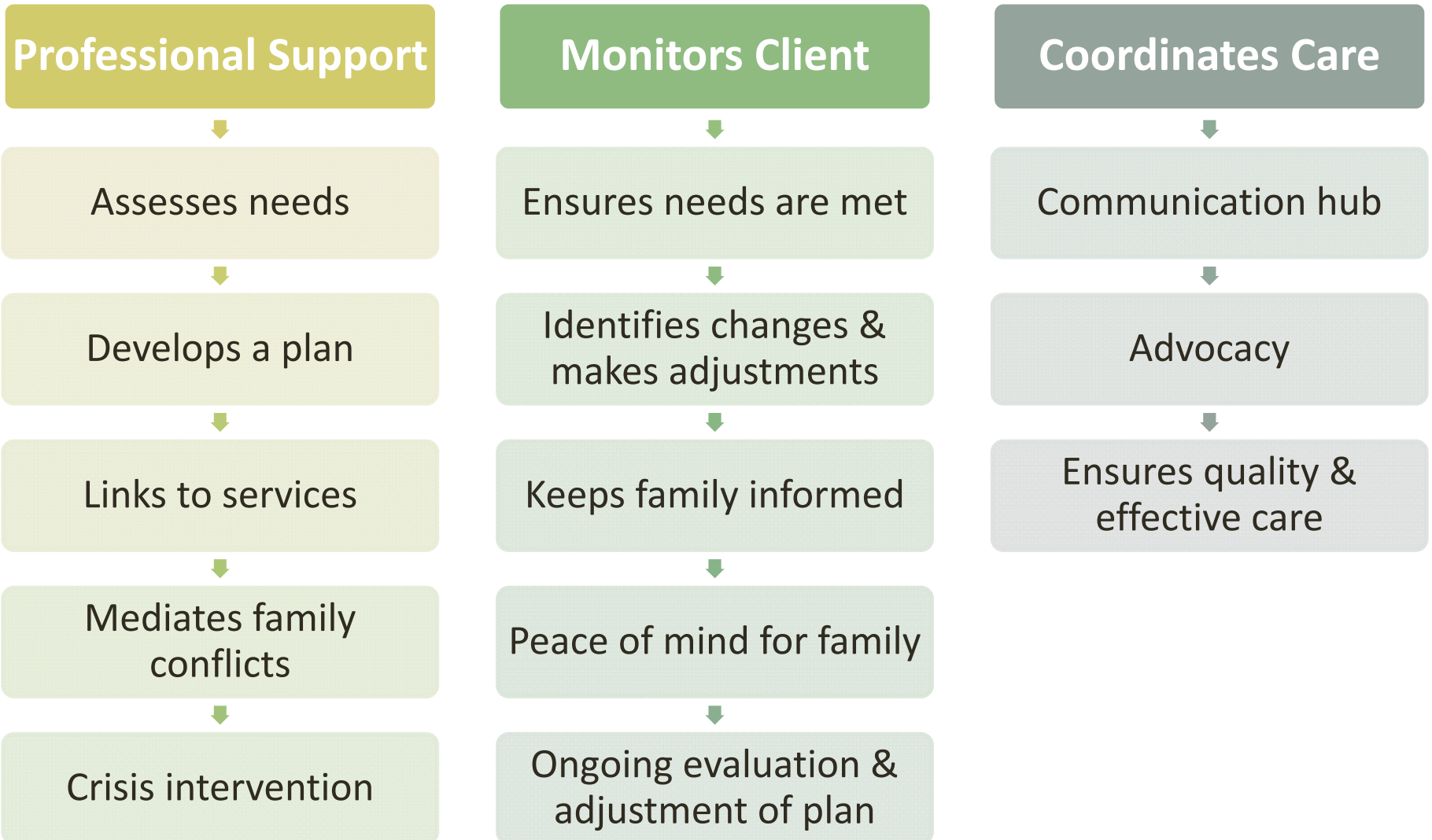


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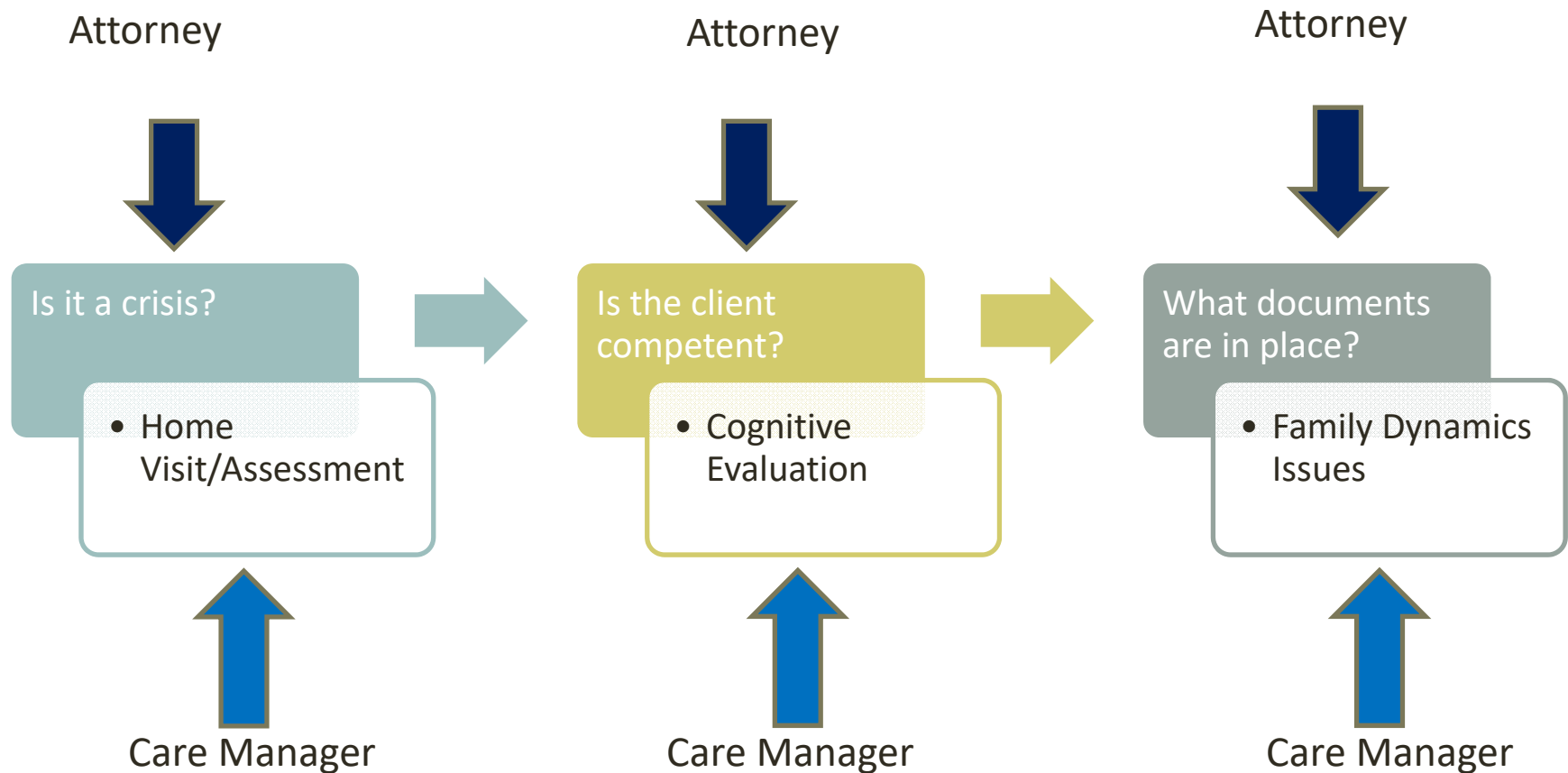


Hired privately by families

The many roles of a Care Manager



Professional Advisor/Care Management Approach



The right to self-determination:

Self-determination:

The power or ability to make a decision for oneself without influence from outside



What might influence our decisions?

Capacity:

Cognitive impairment vs. Legal incapacity

"Capacity to consent" means the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs.

- **Competency** is a legal term, defined as: "duly qualified: having sufficient capacity, ability, or authority [Black's Law Dictionary]."
- **Mental capacity** is a functional term that may be defined as: the "mental (or cognitive) ability to understand the nature and effects of one's acts."

Diminished Capacity

Causes

Dementia

Substance Abuse

Mental Illness



Symptoms

Vulnerable
Physically and
Cognitively

Poor decision
making

Poor self care

Financial
exploitation

Intuition and Red Flags

The role of intuition: Something doesn't "feel right"

- Intrusive/Controlling outside party
- Changing stories depending on audience
- Evidence of substance abuse by client or close family
- Excessive spending on self or others
- Irrational behavior
- Suicidal ideation/behaviors



Practical Concerns

When do you stop following client's direction vs. alternative designated person/family?

When and how do you activate POA and/or HCP?

Excessive solicitation, financial abuse, and isolation of elder

How to help family to talk to the incapacitated elder?

Evaluating Capacity and Risk

High Risk
High Capacity

Accept Clients Right to
Self Determination

High Risk
Low Capacity

Intervention/Legal
Guardianship

High Risk
Moderate Capacity

Reduce resistance
Reduce Risk
Increase Capacity

Tools for Evaluating Capacity

Role of physician

Neuro-psych testing

Role of psychiatrist/neurology

Role of Legal: Protective /Structures

State: Neglect/Abuse (Elder Services)

Care Management – Biopsychosocial
System

Widowed and Alone

*Widowed, 76 years old
living in Back Bay in a
multi-level home*

**Relationship with
Financial Planner for
over 14 years – yearly
meetings: No children**

**Over 5 million in assets
Recently called Financial
Planner and indicated
that she wanted to make
some changes and leave
money to a neighbor
Niece calls from Ca. with
concerns , but planner is
reluctant**

*Crisis call from Beacon
Hill Village!*

**Hospitalized with
infection – found on
floor in apt by
neighbors**

**Evidence of self
neglect – spoiled
food; unpaid bills**

**What is the post-
hospital plan?**

*Care/Financial/Legal
Concerns*

**No updated health
care proxy, POA, or
will**

**Why was she living
like this?**

**Why did she ignore
signs of health crisis?**

**Why didn't anyone
know?**

Legal Tool Kit for Incapacity

Health Care Proxy

Power of Attorney

Trusts

Care Committee

Guardianship/Conservatorship

Planning Ahead: What Can You Do?

Raising issues
before there is a
problem.

Minimalizing
problems down
the road.

LTC insurance

Update current
legal work

Identify and
communicate with
professional team

“Care Committee”
for clients with no
family

Proactive Steps for the Professional



Determine a Protocol in your practice

Develop your own team of “ professional advisors”
and create these relationships in advance

Use as support system for tough cases- don't go it
alone