

# Why Mediation Therapy?



*Janet Miller Wiseman*

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## Why Mediation Therapy?

Mediation Therapy is designed specifically to address situations of conflict between close members of a family. Their goals for a therapeutic intervention may lie at nearly opposite ends of a continuum. One person wants to salvage the marriage, the other to divorce; one person wants to marry tomorrow, the other in five years and is still questioning with whom. A husband wants to build an addition to the home so his mother can live there, while his wife wants to find an excellent senior citizens' condominium for her. These conflicts in desires often elicit emotions that, if not reckoned with, may lead to inappropriate, even dangerous action.

At its optimum usefulness, mediation therapy is for people who cannot agree upon *anything*. Rarely, however, is this the case. The goal of mediation therapy is not consensus, or even partial agreement, between people. The goal is for each participant to gain genuine understanding of and acknowledge the other's way of seeing. This understanding of how the other person hears, perceives, and understands is what leads to a *mutual* decision about the future of the relationship or a successful resolution of the problem at hand. This enhanced, nonadversarial understanding is the sole goal of mediation therapy.

Couples and families who enter mediation therapy may or may not have a relationship disturbance or mental illness. If diagnostic assessment reveals disorders that can either be worked with or worked around in mediation therapy, then a mediation therapist can make a contract for mediation therapy with that couple. If, however, there are disorders such as those discussed in chapter 9, Selection of Clients, then alternative recommendations for treatment are advised.

Most couples who come for mediation therapy, regardless of mental illness or relationship disturbance, have in common feelings of confusion and ambivalence—of being in limbo and at wits' end. Nonetheless, is an entirely new therapeutic approach warranted for couples at their wits' end? And if so, why give this therapeutic intervention the name of *mediation*?

### **Is a New Therapy Necessary?**

Why can't couples and families simply use one of the traditional processes already available to couples and families in trouble—for example, couples therapy, family therapy, or marriage counseling—in their decision making about the future?

Clients certainly can and do use these interventions to reach a decision regarding the future direction of their relationship or to successfully resolve a problem at hand. However there may be an inherent bias in the views of

clinicians and clients alike, that the goals and purposes of marriage counseling and couples therapy are such things as

improving communication

overcoming specific problems such as parenting disagreement, sexual difficulties, and money differences

helping the couple to differentiate from one another and from their families of origin

These goals imply the working out of issues *within* the relationship, and, accordingly, imply a less than neutral bias or perspective about the future direction of the relationship.

When I have informally polled students in classes on mediation therapy, only a very few mention decision making about the relationship itself, or assessment of the relationship's future, as goals of couples therapy. More mention decision making in conjunction with marriage counseling than with couples therapy. The traditional therapeutic approaches for couples take a broad focus and may not always bring people to definitive decisions. By contrast, mediation therapy takes a narrow focus, with a single goal: to bring a couple to a decision.

A far less implicit, less subtle bias is the view expressed many years ago by Henry Grunebaum, Judith Christ, and Norman Nieburg in a paper about

differential diagnosis: “If there is a serious question as to the marriage continuing or if one partner has more or less decided that the marriage will not continue, it is an almost certain indication that any form of couple treatment such as conjoint or concurrent therapy should not be considered.”<sup>[1]</sup> Numerous clients enter my office each year after having been told by the psychotherapist they have consulted recently, by their health maintenance organization, or by their community health center, that their marital problems cannot be treated unless they are both committed to their marriage.

There are explicit proscriptions against using couples therapy to treat certain couples: those in which the partners’ goals are different, or in which one or both partners are uncommitted or indecisive. Combined with the implicit bias toward saving the relationship that is often associated with marriage counseling or couples therapy, the creation of a specialized intervention for decision making becomes not only necessary, but urgent, if the needs of growing numbers of couples and families in crisis are to be adequately met.

At a time of marital upheaval, or of relationship or family crisis, people frequently are tempted to view and experience themselves as victims. Feeling “done to” and feeling taken advantage of, they drift into feeling more and more passive, vulnerable, out of control, or dependent; or they become ill. A



strong positive feature of mediation therapy is that the attitudes and strategies of this intervention foster the progression of ego-functioning (what I term *mastery*), not regression. Mediation therapy strategies encourage people to take charge of themselves by giving them tasks to do, and by helping them to see themselves as experts on themselves, working in partnership with an expert on decision making. Psychotherapeutic interventions that purposefully promote a regressive transference (in which the psychotherapist is seen as an authority, rather than an expert) may inadvertently accentuate the feelings of helplessness, powerlessness, and victimization that people in this particular life-stage are experiencing.

Some psychotherapeutic circles assume that if a couple may be separating, they should see separate psychotherapists—in order to decide about the marriage in the privacy of their own thoughts and convictions about themselves and their mate. This assumption is diametrically opposed to the one that mediation therapy makes: couples deserve the option of having a calm, rational forum in which, together, they can come to terms with their futures. Increasingly, people are also using mediation therapy to make decisions about living together or getting married, as well as for other vitally important decisions about the future.

Whether a couple is deciding to marry, to divorce, to live together, to separate, to send a child to residential school or a parent to a senior citizens'

home, there is most often present a palpable level of tension, conflict, anxiety, and ambivalence. It is these people with intense conflicts who are the chosen population for mediation therapy; and these are the same people who, according to the article on differential diagnosis cited above, are not appropriate for couples therapy. Writing twenty-two years ago, Grunebaum, Christ, and Nieburg stated, “Indeed, a therapist may be wise, depending on his inclinations, not to become involved in treatment with two spouses who in turn are intensely in conflict, or fully involved with one another.”<sup>[2]</sup> Again, these are the same couples who can be well served by the process of mediation therapy.

As a highly cognitive but many-faceted approach to conflict negotiation, mediation therapy is tailor-made for couples and families in intense conflict. Although other psychotherapeutic approaches can and do help couples make decisions about their relationships, mediation therapy is the wrench designed to unscrew the locked nut of ambivalence about the future direction of relationships. The tools of couples therapy and marriage counseling may not always quite fit the need to make decisions about the future of a relationship. They may not have built-in specific techniques for conflict negotiation and decision making, and may not be able to accommodate families in intense conflict and those families whose members may have radically different goals for the intervention.

## Why Give This Approach the Name of Mediation?

To mediate literally means to occupy a middle or mediating position. Psychotherapy often implies a process of self-understanding, which may or may not lead to character or behavior modification, to further personal growth, or to maturation. When psychotherapy is done with couples, there is the hope that it may contribute to improvement in the relationship. Mediation therapy, however, is not committed, as such, to any of these goals; they do seem to occur frequently and paradoxically, as by-products of the intervention. So *psychotherapy* is not a wholly accurate name for this focused decision-making process.

In mediation therapy, a neutral professional therapist sits in the middle position between two or more related persons in crisis, facilitating their decision making. Since many people who come to the process also have a diagnosable mental illness or relationship disturbance, the facilitator needs to be trained both as a mediator with ample skills to help people negotiate conflict, and as a psychotherapy clinician with advanced skills and experience. The combination of mediation and psychotherapy, together with conflict negotiation, defines to a large degree the process used in helping couples reach decisions. Hence, the name *mediation therapy: short-term decision making for couples and families in crisis*.

The name *mediation therapy* may be confused with divorce mediation,

whose goal is a written agreement that becomes the basis for a couple's divorce settlement. The confusion of terms is both understandable and unfortunate. The general public is not yet clear about how or when divorce mediation is used, nor about how it differs from and compares with other methods for obtaining a divorce. Over time there has evolved a greater understanding of divorce mediation as a consensual approach for obtaining a divorce. I hope and anticipate that over time mediation therapy will be perceived as a distinct decision-making, therapeutic process, totally separate and very different from nontherapeutic divorce mediation.

Clients involved in the process of divorce mediation frequently ask whether the part of the process that focuses on discussion of the needs of their children is not actually a mental health intervention. The best interests of the children often are discussed in therapeutic interventions as well, but with different goals. In divorce mediation the ultimate goal of the discussion of the children's needs is to generate a consensus about the children's best interests, to be written into the agreement of the terms of a couple's divorce.

Divorce mediation is *not* psychotherapy and is *not* the decision-making process of mediation therapy. Each of these interventions has discrete and different goals. Though a couple may discover through mediation therapy a need or desire to separate or divorce, that discovery does not turn the process into divorce mediation—a new, separate process whose goal is the

working out of the actual terms of the divorce settlement. If, during mediation therapy, a couple reaches a decision to divorce or separate, it is expected that a period of time will elapse before they are ready to choose negotiation, litigation, or mediation as the appropriate process for working out the terms of their separation or divorce agreement.

### **How is Mediation Therapy Similar to and Different from Other Approaches?**

As already mentioned, mediation therapy is a therapeutic intervention and is not the same as the nontherapeutic process of divorce mediation. How, then, is it similar to and different from other therapeutic interventions?

Like James Mann's *Time-Limited Psychotherapy*, mediation therapy offers couples a time-limited process—typically twelve sessions. During the process, the members of the couple will make observations of themselves and of their relationships; express powerful emotions to one another; and learn skills in assertiveness, communication, negotiation, disagreement, and decision making, which ultimately will enable them to discover an important decision.

Since mediation therapy creates more intimacy between people during a time period when some individuals are desirous of far less contact (let alone intimacy), and since the process may or may not unleash the expression of painful emotions, the time limit offers an ending, with a decision made, as the

motivation to endure more intimacy, more contact, and possibly more pain. The time limit brings a formal conclusion to being in limbo, an end to the indecision, as well as an ending of the relationship as it was. The time limit makes possible a mutual decision and a new form of relationship. It implies that having an indefinite amount of time available does not necessarily contribute to reaching a decision. The time limit also marks a formal beginning of a new way of life.

In common with psychoeducational approaches, mediation therapy involves instruction. It is an approach in which written material—papers, charts, books, as well as research findings—are shared with clients.

In some psychotherapies, clinicians are urged to be value-free in their work with clients. In mediation therapy an open, direct partnership between expert and client is more useful than a reserved stance. The mediation therapist is, in fact, encouraged to share his or her values about child-rearing, marriage, divorce, and nonmarriage openly with clients. Among my values, which are shared from time to time with clients, are the following:

- The behavior and needs of any children of the couple need to be considered during the decision-making process.
- Marriage is positively regarded by the mediation therapist. I believe that marriage should not be casually dissolved in response to temporary reactions (a death in the family, for instance, or

an anniversary, an illness, a birth, or the like.)

- Although divorce may be better for one or both adults, there are indications that a relationship that causes parents great unhappiness and pain may nonetheless provide a context in which children are quite happy. Therefore, I believe that a well-considered divorce should be carried out with as much finesse, support, and caring for the children—and for one another—as possible.
- The mediation therapist is carefully trained to be *neutral*, not siding with either individual, but with the best, most mutual decision the couple can make.

Other values held by the mediation therapist are shared with the couple when the mediation therapist becomes aware of the pertinence of the values to the discussion. Especially when the mediation therapist's values seem authoritative or definitive, they are shared *to minimize the risk of their blocking the mediation process*. The members of the couple are likewise encouraged to share their values and beliefs with each other and to respect the other's values even when they disagree with these values. (Ways of clarifying one's values and biases are discussed in chapter 2.)

## Who Needs Mediation Therapy?

An important question arises at this point. How many couples, how many families will use and benefit from this decision-making approach? Some

current speculation on expectations of marriage is that even couples who have good economic and parenting partnerships, but who feel they lack satisfying emotional relationships, now consider terminating their marriages. According to some reports fifty percent of recent marriages can be expected to end in divorce. Thirty-eight percent of children born in the mid-1980s will experience parental divorce before they are eighteen.<sup>[3]</sup> As the families who comprise these statistics grope for satisfactory solutions, the result will be marital crisis and indecision, with the disruptive ramifications extending to these individuals' ability to concentrate and be fully productive, at work and at home.

Far from contributing to a high divorce rate (which existed long before mediation therapy was invented), the mediation therapy approach provides a safe, calm, rational forum in which already indecisive couples can discover the best alternative for themselves and for their families.

As stated earlier, a growing number of not-yet-married couples come to mediation therapy to decide whether or not to be married, or whether or not to live together and when. Statistics are lacking for how many people could use mediation therapy to answer their questions about their relationship direction. Nevertheless, the fifty percent reported divorce rate for first marriages indicates that great numbers of people could use a rational, sane decision-making process to assess the advisability of marriage before the



ceremony takes place, rather than afterward, at a time when dissatisfaction has set in.

In addition to its usefulness for couple relationships, many clinicians who have studied mediation therapy have indicated that their intended use of the process is to aid middle-aged people in making decisions about the future of their aging, sick, or terminally ill parents; or in making decisions about the residence and schooling of special needs children or young adults. Others have become mediation therapists in order to mediate conflicts between patients and their families during inpatient psychiatric hospitalization. Still other mediation therapists use the process to work out agreements between young people and their parents.

According to some reports, the two-parent family living together with their children is no longer likely to be the norm in the 1990s. The number of two-parent households declined from forty percent of all households in 1970 to twenty-seven percent in 1988 according to the U.S. Census Bureau's "Report on Families and Households."<sup>[4]</sup> It seems clear that people are making decisions toward family forms that they hope will suit them better than the long-established family forms to which they previously subscribed.

In 1987 a major U.S. newspaper editor declined to publish information about mediation therapy, reportedly because she felt this information would

contribute to a higher divorce rate. On the contrary, it is clear that people have been making divorce decisions in great numbers without the benefit of mediation therapy. Mediation therapy, with its structured, rational, time-limited approach, is one of the best vehicles available for providing a safe and sane environment within which adults may make the wisest decisions of which they are capable. Some couples who would have divorced find a place to address their differences and stay married. Many who would have separated and divorced acrimoniously are able to “own” their decision together, feeling mutually responsible for it; in mediation therapy one person does not assume all the guilt with the other assuming a “done to” or “done in” posture. Some couples decide not to marry after all, and some stage their living together and marriage commitments over time. Some families build additions to their homes for an aging parent, where that makes sense, while some acknowledge sooner rather than later that a senior citizens’ condominium, nursing home, or medical care facility is the wiser placement. Decisions made in mediation therapy are based upon a couple’s or family’s expression of and understanding of one another’s issues, viewpoints, and emotions.

Around the U.S. in the 1970s—from Los Angeles, to Atlanta, New York, Washington D.C., Boston, and beyond—divorce mediation seemed to be welcomed in many professional circles as an ancient idea whose time had come. Contrary to this arrival of an old idea captured for divorce purposes,

mediation therapy grew up pragmatically and developed inductively. A blend of techniques from mediation, conflict negotiation, time-limited psychotherapy, and elsewhere was implemented in its use with couples in crisis and has continuously evolved from 1979-1990.

Unlike divorce mediation (a new alternative to the old problem of getting a divorce), mediation therapy does not arrive as a wholly new method. In *Problem-Solving Therapy*, Jay Haley presents a pragmatic, problem-focused approach for working with families. It is different from mediation therapy in not being specifically focused for making a single discrete decision. Nonetheless, there is much in his approach, as there is in Margot Fanger's possibility-focused approach, that echoes the pragmatic, positive, forward-looking aspects of mediation therapy.

The theoretical framework for mediation therapy grew from the bottom up. An integrated theoretical model has grown from the practical premises, attitudes, and techniques, blended together to become mediation therapy.

## **An Overview of Mediation Therapy**

As a psychodynamically trained clinician simultaneously educated in family systems theory, and later trained in divorce and family mediation, I see mediation therapy as a blended approach.

Some clinicians learning mediation therapy have frequently described it as a cognitive approach. Other clinicians describe it as a structural or systems approach, or a psychoeducational approach. It has been called both a decision-making approach and a psychospiritual approach. Theoretically and strategically, the methods used are a blend of techniques from mediation, communications, family systems, and conflict negotiation theories, with ideas from decision-making theory and from neurolinguistic programming. This eclectic combination of many sources is intended to enrich rather than to dilute mediation therapy.

The techniques available for use in mediation therapy blend with the couple's current agenda at each session to become a living process of decision making. That the couple has come through the door requesting mediation therapy means that well over half the task is already accomplished in most cases: the couple has decided to make a decision.

The mediation therapist, from the outset, encourages the individuals to tolerate "not knowing" for a limited period of time, in the interest of making a wise decision. He or she often repeats throughout the intervention, that deciding may be a matter of uncovering a decision that is already deep within the individual but that he or she has not allowed him or herself to know up to this point.

The couple understands that explicit decision making as well as the urgency to know a decision will be suspended while the expression of strong emotions takes place. They understand, too, that stepping back for a systematic, rational overview of themselves as individuals and as a unit will also take place. A sharp increase in the couple's observations, information, and understanding of themselves takes place quickly in mediation therapy, together with the unleashing of long pent-up emotions. Becoming attuned to themselves, while observing themselves and their relationship, permits each individual to have a clearer vision of areas in which he or she needs to work, or it may make clear that further work in this relationship will most likely be unproductive.

Some individuals or couples will protest that marriages or relationships are based upon emotions and that rationality has no place in this arena. The mediation therapist agrees that emotions are just as vital as rationality, but that both need to be "equal guests" in the decision-making intervention.

The rational overview, or the head component in mediation therapy, combines with the heart component, the sharing of deep emotion, to yield a deeper knowing within each individual of what is actually wanted in a relationship and what is available or potential in a particular relationship.

Often people expect to be able to make a decision based on the head

component alone. In mediation therapy, an individual is frequently caught between two options, unable to make a decision based solely on rational thought. The person's eyes appear opaque and move from side to side, as if she or he is considering each option in turn: for example, "Shall I get a divorce? Or shall I stay married?" The person's eyes jump from right to left as if watching an imaginary tennis game in which the ball is being hit back and forth between the two choices.

In this match neither side will triumph. The volley will continue endlessly as long as the individual uses only reasoning, or the head component. Instead, a deeper knowing may be achieved by encouraging an individual to consider not only the head component but also emotional, educational, and sensory information. By changing the rules of the game, insisting that additional information be considered, I, as a mediation therapist, attempt to turn obsessive thinkers into farmers. That is my own metaphor for decision making as a "field of dreams." In the movie by that name, a farmer plows under his corn fields to build a baseball diamond and await some baseball players who were his father's heroes. The field may be seen as a metaphor for the farmer's eventual acceptance of his father. The field in mediation therapy then may be seen as a metaphor for the individual who accepts information to use in growing a decision.

In the field of mediation therapy the seeds of rational thought are

planted. Seeds of sensory information and instructional information about communication, negotiation, disagreement, decision making, and assertiveness are also planted. The mediation therapist tends the fields with basic conflict negotiation attitudes and techniques. When the time is right and information has crosspollinated, an integrated understanding grows into an “Ah-ha! I understand now. I *know*.” This blending of various types of information combined with deft conflict management by the mediation therapist virtually always leads to individuals growing decisions through integrated understanding. These individually grown decisions will then be negotiated with the partner’s decision to become the collective decision of the couple or family. In mediation therapy, the process of deciding engages the head, the heart, the eyes, the ears, the intuition, and the inner source of wisdom within each individual—all of the senses and resources one has, not merely the rational resources.

The mediation therapist has faith in the process of helping people “know,” and conveys her or his faith in the process to those who want to clarify their futures. Believing in the process, the mediation therapist describes it to them, what it is, how and why it works, and begins to guide them through what will be their own unique process. No two couples need explore their relationship or express their emotions in exactly the same way or at the same point in the mediation therapy process. In fact, it is better to talk about each couple’s process, rather than about the mediation therapy

process. Cues as to what new processes need to be created or employed with a couple are derived from the couple itself. Likewise, the cues that strong emotion needs to be expressed will frequently come from the individuals. And often indications about which exercises are needed, which questions may be asked and at what point, will come from the couple. For example, some couples will need to clue the therapist in on details of their families of origin before talking about their theories of the breakdown or impasse in their relationship. Other couples may need to reverse the order, or may need not to engage those questions at all. Nearly always, the mediation therapist allows the couple to lead if they have points of departure but is prepared to lead them and guide them if they do not have an agenda.

Some clinicians learning the mediation therapy process have asked for a description of the sessions from number one to number twelve (see appendix A for such a description). Mediation therapy could be and indeed has been well conducted in a sequential, predictable ordering of sessions. In this manner mediation therapy is predictable, duplicable, and efficient.

The artistic nature of the process of mediation therapy includes helping each couple to design their own process, based upon what is pressing for them to deal with; on their abilities to use visual, auditory, kinesthetic metaphor, and imagery; and on their defensive adaptations, their timing, and their character styles, among other factors. Allowing the initiative and control



to come at times from the mediation therapist and at times from the couple requires that the mediation therapist be confident about the universality of the issues occurring in couples in crisis.

When the couple leads into or around a particular issue, the experienced mediation therapist will see how that issue dovetails with areas the therapist intends to include in the process. The artful application of the process involves letting go of control of the process at times, and picking up strong control at other times and, of course, the wisdom to know when to give structure to the process and when the couple needs to bring forward burning concerns, issues, and themes of their own.

Not all techniques, structures, attitudes that are introduced in this book, will be used with every couple. Other techniques will be used with every couple: in fact, a few techniques will be used at virtually the same time in every mediation therapy.

Attitudes that the mediation therapist brings to the process are likely to be the same with most couples and are crucial for setting a tone for decision making.

It is critical for the mediation therapist to believe that no matter how intense the conflict, how large the war, how ambivalent the parties, or how stagnant the relationship, those couples who have presented themselves to

you to make a decision will be able to arrive at a mutual or mutually understood decision about their future direction. It is also important to realize that there are exceptions to this important rule.

Through her or his attitude, the mediation therapist needs to convey to the couple that she or he will be in charge of the process, including when to offer the couple control of the process. At the same time the couple is completely in charge of the decision they will be making. In conduct, the mediation therapist demonstrates to the couple that her or his function as an expert, in partnership with the two of them, is the antithesis of an authority who will decide their futures for them or pass judgment on them or on their relationship. As an expert, the mediation therapist guides the couple in catching a glimpse of themselves and in holding on to it long enough for each one to evaluate what he or she sees.

Through demeanor and actions the mediation therapist conveys that she or he is both empowering the couple to take charge of their lives and promoting their executive ego-functioning at its highest level, rather than tapping into regressive ego-functioning.

Typically, a mediation therapy session blends some of the following elements, which will be discussed fully in later chapters:

the couple's agenda,

some education about communication,  
exercises to help them gain a rational overview of the relationship,  
the sharing of strong emotions, negotiation of one or more conflicts,  
education about assertiveness, conflict resolution, decision making,  
and effective disagreement.

Strategies, or *rational structures* as I call them, for helping the couple take a rational overview of their relationship are at the heart of the intervention. Delineated in chapter 4, the structures include pertinent questions to the couple, techniques and positions for the mediation therapist, and areas of knowledge to teach to couples.

At its most successful, mediation therapy helps people let go of denial and distortions about the self and about the relationship. It helps couples see clearly what they want and need personally and in a good long-term relationship; and it helps individuals see clearly what is actually available and what is potentially available in their relationship. In mediation therapy a decision about the future direction of the relationship is seen, discovered, or uncovered, based upon the confrontation of myriad actual facts and partisan perceptions about the relationship, and by sharing powerfully intense feelings. There is no need to “make” a decision through obsessional review: “Should I or shouldn’t I get together, stay together, or have my parent or child

live away in a residential placement?” The keys for “getting to know,” for unlocking an internally congruent decision in mediation therapy, are: patience, tolerance of ambiguity, and the immense courage to peel away denial and distortions about the self and the relationship.

### *Notes*

[1] Grunebaum, Christ, and Nieburg, “Differential Diagnosis,” 6.

[2] *Ibid.*, 8.

[3] Norton and Moorman, “Current Trends in Marriage and Divorce Among American Women,” 3-14.

[4] “Census Shows U.S. Family Households In Decline,” *Boston Globe*, September 20, 1988.

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