



**THE DEVELOPMENT OF PARENTING COORDINATION  
AND AN EXAMINATION OF POLICIES AND PRACTICES  
IN ONTARIO, BRITISH COLUMBIA AND ALBERTA**

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# 1.0 INTRODUCTION

## 1.1 Background

In the past 30 years, there has been growing awareness of the detrimental effects of sustained post-separation parental conflict on the short- and long-term mental health, behavioural and social development of children (Amato, 2000; Amato & Keith, 1991; Deutsch & Pruett, 2009; Higuchi & Lally, 2014; Lucas, Nicholson, & Erbas, 2013; Johnston, Roseby, & Kuehnle, 2009; Kelly, 2000, 2014). There is also evidence pointing to the benefits of increased involvement of fathers in their children's lives post-separation (Lamb, 1981), and a slow shift over the past several decades to a presumption of shared custody of children following breakdown of their parents' relationship (Bertrand et al., 2016). As noted by Sullivan (2013):

this shift...contributed to a change in focus and increased the workload of the family courts in North America. Previously, if child custody was in dispute, the court's role was to adjudicate physical and legal custody, which was then awarded to one parent, in most cases, the mother.... Thus, the problems of managing higher-conflict shared-parenting families were not nearly as prevalent as they are today because there were many fewer high-conflict parents sharing custody. (p. 56)

Kelly (2014) notes that most people who separate or divorce are more likely to do so in the earlier years of their relationship than was the case in the 1970s and 1980s, which has resulted in a larger number of young children being affected by family breakdown. Research has suggested that parents with young children who separate are more likely to be highly conflicted and to have difficulty communicating and coming to agreements regarding day-to-day parenting issues (Maccoby & Mnookin, 1992).

Conflicted co-parenting is frequently characterized by the presence of high levels of distrust, personality disorders and psychological issues, and ineffective decision-making, which can all have detrimental effects on the ability of parents to work together to make decisions in the best interests of the child and successfully deal with conflict (Fidler, 2012). Further, estimates indicate that the 15 to 20% of parents who continue a consistent pattern of high conflict after their relationship ends utilize approximately 90% of the court's resources and attention (Coates et al., 2004). Clearly, mechanisms and programs that are designed to reduce or manage post-relationship conflict can provide great benefits not only for parents and their children, but can also serve to enhance the efficiency and effectiveness of the justice system.

Parenting coordination is a child-focused alternative dispute resolution process that is typically used to assist parents whose post-separation relationship is characterized by high conflict to implement a previously agreed to and/or court-ordered parenting plan following relationship breakdown (Coates et al., 2004). As noted by Fidler and Epstein (2008), high conflict parents tend to argue about a variety of parenting decisions, ranging from the mundane to the critical, and frequently fail to reach agreement on their own. It is often these arguments about day-to-day decisions that parenting coordinators (PCs) attempt to assist the parents to resolve.

In 2012, the Ontario Court of Justice explicitly took notice of PC in *Sehota v. Sehota*, 2012 ONSC 848 (cited in Benmor, 2013) and provided an extensive list of the types of issues that could be addressed by a PC at para. 29:

- minor changes or clarification of parenting time/access schedules or conditions including vacation, holidays and temporary variation from the existing parenting plan;
- transitions/exchanges of the children including date, time, place, means of transportation and transporter;
- health care management including medical, dental, orthodontic, and vision care;
- child-rearing issues;
- psychotherapy or other mental health care including substance abuse assessment or counseling for the children;
- psychological testing or other assessment of the children or parents;
- education or daycare including school choice, tutoring, summer school, participation in special education testing and programs or other major educational decisions;
- enrichment and extra-curricular activities including camps and jobs;
- religious observances and education;
- children's travel and passport arrangements;
- clothing, equipment, and personal possessions of the children;
- communication between the parents about the children including telephone, fax, email, notes in backpacks, etc.
- communication by a parent with the children including telephone, cell phone, pager, fax, and email when they are not in that parent's care;

- alteration of appearance of the children [including] haircuts, tattoos, ear and body piercing;
- role of and contact with significant others and extended families;
- substance abuse assessment or testing for either or both parents or a child, including access to results; and
- parenting classes for either or both parents.

Parenting coordination is typically non-confidential, and PCs frequently solicit the input of third parties such as therapists, teachers, physicians, children's counsel, or parenting assessors. As noted by Kelly and Higuchi (2014), the non-confidential nature of parenting coordination provides PCs with the formal authority to communicate with the court regarding their cases, as well as to solicit the input of the other professionals involved with the family. These authors further suggest that the non-confidential nature of parenting coordination also encourages parental compliance with their parenting plan because they know that the PC has the authority to report any pattern of non-compliance to the court. Kelly and Higuchi (2014) note that the non-confidential nature of parenting coordination does not constitute a breach of professional ethics since parents are informed about this aspect of parenting coordination before beginning the process.

The actual procedures and processes that characterize parenting coordination have evolved into somewhat different programs in different jurisdictions. "The spread of parenting coordination, like most roles in family law - mediation, custody evaluation, court-involved therapy - has created significant variance in parenting coordination programs across jurisdictions and even more variability in individual parenting coordination practices within those jurisdictions" (Sullivan, 2013, p. 57). However, despite these differences in the practice of parenting coordination across and within jurisdictions, in most cases PCs attempt to mediate parents' disputes regarding child-related issues and, if mediation is not successful, to arbitrate the dispute. As several authors have noted, parenting coordination is a hybrid method that melds both legal and mental health functions (Beck et al., 2008; Fidler, 2012; Fidler & Epstein, 2008), and PCs usually come from a mental health background, psychologists, psychiatrists, social workers, or a legal background.

In 2000, the American Bar Association's Family Law Section hosted the international Wingspread Conference. This seminal, multidisciplinary meeting was intended to develop an action plan to guide the reform of the legal system around the best interests of the child. "The conference concluded that courts, attorneys, and mental health

professionals have the best chance of influencing how high-conflict cases are handled” (Kirkland & Sullivan, 2008, p. 623), and participants recommended that PCs who are trained to deal with high conflict family law cases should be provided as a basic service within the family justice system.

Fidler (2012) suggests that parenting coordination is not appropriate for all high conflict cases. In particular, she notes that:

Parenting coordination is unlikely to be appropriate for cases involving coercive controlling violence, incompetence due to severe mental illness, uncontrolled substance abuse, or ongoing child maltreatment. Other contraindications include the parents having had multiple prior [parenting coordinators], making one or more complaints to a licensing board or engaging in criminal activity, such as vandalism or theft. In addition, cases involving chronic violations of the PC Agreement, parenting plan or orders are unlikely to be appropriate and may require supervision of the court. (p. 242)



## 2.0 THE DEVELOPMENT AND EFFECTIVENESS OF PARENTING COORDINATION

### 2.1 The Development of Parenting Coordination

The parenting coordination model was first developed in the 1980s in the United States as a response to family law cases characterized by high conflict and repeated litigation of child-related matters in the years following parental relationship breakdown (Kelly, 2014). “The objective was to help parents resolve their ongoing child-related disputes through a combination of mediation and decision making as an alternative to the conflict escalation and high expense of the adversarial legal system” (Kelly, 2014, p. 13). The rapidly increasing family court caseloads seen in the late 1980s and early 1990s led to the independent development of two unique and innovative interventions for post-separation parents whose interactions were characterized by ongoing levels of high conflict: the Special Master program in California and the mediation-arbitration model in Colorado.

The Special Master program was developed as professionals working within the court system observed that when parents returned to court several times a year to deal with child-related disputes, mediation was very rarely effective and was a waste of both court and family resources. In northern California, “several independent mental health practitioners with well-established forensic, divorce, and custody mediation practices were referred parents with repeated postdecree litigation and continued high conflict” (Kelly, 2014, p. 19). Initially, these professionals practiced in isolation without any common guidelines about how their work with these parents could best be accomplished. The agreement reached with these clients was that the professional would initially attempt to mediate the dispute; if it was clear that mediation would be unsuccessful, however, the parents agreed to allow the practitioner to arbitrate the dispute, with the resulting decision being binding on the parents. Thus, the basic parenting coordination model was born. As word spread about other practitioners conducting similar work in California, “the term *Special Master* was adopted, based on a California statute describing the power and role of a category of experts for court cases” (Kelly, 2014, p. 20).

Practices being developed in Colorado at about the same time were very similar to the developments in California. Christine Coates, a well-known lawyer and mediator, began accepting cases to provide mediation-arbitration services to high conflict parents who were engaging in frequent re-litigation. This model was further refined and

developed with other practicing mental health and legal professionals in the Boulder, Colorado area in the 1990s. An interdisciplinary group who worked with high conflict families began meeting in 1992 to share their experiences, and coined the term *parenting coordination*.

Fidler (2012) notes that while parenting coordination and mediation/arbitration processes are similar, there are important distinguishing characteristics. Both involve an impartial third party assisting parents to settle disputes that arise regarding parenting issues through mediation and, if the parents reach an impasse and are unable to resolve their dispute, to arbitrate the dispute and arrive at a binding decision. However,

typically, mediation/arbitration is used to resolve specific disputes as they arise and those identified in the mediation/arbitration agreement. In contrast, parenting coordination typically involves an identified duration of service, usually between 18 and 24 months and assists in a more ongoing manner with repeated implementation issues (Fidler, 2012, p. 241).

One important distinction is that in mediation/arbitration, the mediator/arbitrator has the authority to make decisions on any issues that were predetermined prior to the start of service. In other words, if the parents have agreed that any issues may be decided by the mediator/arbitrator if the parents cannot reach an agreement, then the issue may be arbitrated. In contrast, a PC's jurisdiction lies within the bounds of a pre-existing parenting plan or court order. Existing parenting plans or court orders cannot be altered substantially or permanently by a PC (Direnfeld, 2015). Further, PCs cannot make binding decisions on disputes related to relocation of a child, custody, or substantial permanent changes to parenting time schedules (Fidler, 2012).

As the number of professionals engaged in this type of work increased, along with the recognition that these cases are often very complex and challenging, awareness of the need for specialized training for individuals involved in this work grew. In 1994, Joan Kelly and M. Margaret Lee offered the first one-day training course for Special Masters, and in the same year Santa Clara County sponsored the first Special Master Training conference. The one-day training course offered by Kelly and Lee "described the unique hybrid model of the PC, the absence of confidentiality, how the court order initiated and governed the parenting coordination practice, and the authority to make decisions in working with parents on child-related disputes" (Kelly, 2014, p. 23).

As knowledge of this new dispute resolution process increased, the Association of Family and Conciliation Courts (AFCC), an international interdisciplinary organization of judges, lawyers, mediators and mental health professionals working in the family law area, recognized the need for development of model standards of practice for PCs. The AFCC Task Force on Parenting Coordination, first appointed in 2001, discussed creating practice standards, but concluded that the parenting coordination model was too new to justify the development of such standards. “The Task Force instead investigated the issues inherent in the new role and described the manner in which jurisdictions in the United States that have used parenting coordination resolved those issues” (Association of Family and Conciliation Courts, 2005, p. 1).

The Task Force was reconvened by the president of AFCC in 2003 and included two Canadian members to ensure that the resulting guidelines would be appropriate in both the American and Canadian contexts. The Task Force adopted the following definition of parenting coordination:

Parenting coordination is a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children’s needs, and with prior approval of the parties and/or the court, making decisions within the scope of the court order or appointment contract.

The overall objective of parenting coordination is to assist high conflict parents to implement their parenting plan, to monitor compliance with the details of the plan, to resolve conflicts regarding their children and the parenting plan in a timely manner, and to protect and sustain safe, healthy and meaningful parent-child relationships. Parenting coordination is a quasi-legal, mental health, alternative dispute resolution (ADR) process that combines assessment, education, case management, conflict management and sometimes decision-making functions. (Association of Family and Conciliation Courts, 2005, p. 2)

The Task Force produced 12 guidelines for parenting coordination in the areas of practice, ethics, qualifications and training. The AFCC has recently struck the Parenting Coordination Guidelines Revision Task Force and tasked it with updating the Guidelines. As part of the work of this Task Force, a survey of AFCC’s membership has

been conducted to obtain up-to-date international information regarding parenting coordination practices.

In recognition of the fact that many PCs are mental health professionals, the American Psychological Association (APA) determined that the development of guidelines for parenting coordination that were specifically directed to psychologists was necessary. In 2008, APA convened a Task Force for the Development of Parenting Coordination Guidelines. “These guidelines were intended to provide a specific framework and direction for psychologists in regard to professional conduct and decision making as PCs, as distinct from traditional psychological practices” (Kelly, 2014, p. 24). The final report of the task force acknowledged that psychologists engaging in parenting coordination require different skills and specialized knowledge and training that are beyond the usual roles of psychologists (American Psychological Association, 2012). These include experience with mediation and arbitration, knowledge of the legal context of family breakdown, and experience in dealing with high conflict family breakdown. The APA Task Force developed a set of eight guidelines that are similar to those of the AFCC task force in that “they focus on training and professional competence, ethical guidance, and role functions (including arbitration)” (Kelly, 2014, p. 24). Further, like the AFCC guidelines, those of APA are intended to be aspirational in nature, rather than prescriptive.

## **2.2 Qualifications and Competencies of the Parenting Coordinator**

The AFCC and APA parenting coordination guidelines, and the legislation of some states describe the competencies and training required to act as a PC (Higuchi & Lally, 2014). The AFCC guidelines do not specify which discipline is best suited to the role of PC; however, these guidelines outline the various competencies that are required to be successful in the role. The states that have parenting coordination legislation have provider qualifications within the acts, with the exception of Colorado. The legislation and the AFCC guidelines suggest that a PC could be an expert from disciplines such as law, psychology and social work with extensive experience working with high-conflict families and children’s issues. Some states require that the PC be a registered mediator or licensed mental health professional such as a psychologist or clinical social worker. Four states require training in domestic violence, ranging from a minimum of four to twenty hours. The British Columbia Family Law Act Regulation<sup>1</sup> specifies the professional qualifications and training that PCs must have.

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<sup>1</sup> <http://www.bclaws.ca/civix/document/id/roc/roc/331105891#section6>

The AFCC guidelines and legislation stipulate that the complex nature of the parenting coordination role requires ongoing professional development and training (Parks, Tindall, & Yingling, 2011). PCs should be competent in the following areas: using research and practice-based knowledge to make decisions; writing clear and detailed recommendations and other pertinent documents to the court regarding the parenting coordination process and outcomes; practicing in a culturally competent manner by recognizing personal biases and values; and understanding the ethical and legal responsibility to maintain competency (AFCC, 2005). PCs should also be competent in executing decisions that do not modify or restrict an existing court order and ensuring that decisions are made in the best interests of the children involved (Parks et al., 2011). An overarching skill set of a PC is the ability to objectively assist parents in high conflict situations in reaching a decision that is in the best interest of their children, while being sensitive to the issue of divergent, and often conflicting, parent views as to what the best interests of their children are (AFCC, 2005). PCs have a responsibility to consider the best interests of the children even if the children's best interests do not align with the desires of the parents. The PC's role requires sufficient knowledge and awareness of any conflicting personal and professional biases that may influence the outcomes of parenting coordination.

### 2.3 Roles and Functions of the Parenting Coordinator

A PC is a professional, either agreed upon by both parents or, in some American States, appointed by the court<sup>2</sup> to use mediation and educational methods to help parents whose post-separation relationship is characterized by high conflict implement and adhere to their parenting plans (Higuchi & Lally, 2014). Where mediation and education efforts are unsuccessful, PCs have the power to arbitrate parenting disputes and make binding decisions.

As noted by Hayes (2010), the limited amount of research that is available on parenting coordination indicates that PCs:

are experienced practitioners in their own fields, come from legal, mental health, and ADR professional backgrounds working with high conflict

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<sup>2</sup> Historically, it has generally been accepted in Canada that courts cannot make an order that would, in effect, delegate their powers to a third party (Fidler, 2012). In practice, this means that a family court judge would be unlikely to appoint a PC in the absence of consent of the parents, since the decision-making function of a PC would be an unlawful delegation of the responsibility of the court. Legislation recently enacted in British Columbia (*Family Law Act*, S.B.C. 2011, c. 25) does permit the ordering of parenting coordination without consent of the parents.

families in the court system, and report using a diverse set of skills including education, mediation, investigation, decision-making, and involvement of associated professionals such as Guardians *ad litem*, custody evaluators, and therapists (p. 699).

Based on a review of the AFCC Guidelines, the available literature on parenting coordination, and interviews with PCs, Hayes (2010) identified three major roles of PCs:

- a) implementation of the existing parenting plan;
- b) compliance with the existing parenting plan; and
- c) resolving any issues and disputes that arise in a timely fashion.

It is important to note that parenting coordination is typically a process that occurs once a parenting plan has been developed, with the mandate of the PC to assist the parents with implementation of the existing plan and to recommend the addition of clauses to the plan in order to clarify any implementation issues that may arise (Fidler, 2012). It is not the responsibility or role of a PC to create a parenting plan, although a PC can make recommendations to the court for revisions and modifications to existing parenting plans if no agreement can be reached with the parents. The purpose of parenting coordination is to assist parents in managing their conflict so that they can implement their parenting plan in the best interests of the children.

The AFCC Task Force identified six functions of PCs, as follows:

A. *A parenting coordinator serves an assessment function.* The parenting coordinator should review the custody evaluation, other relevant records, interim or final court orders, information from interviews with parents and children and other collateral sources, domestic violence protection orders, and any other applicable cases involving criminal assault, domestic violence or child abuse, educational records, and analyze the impasses and issues as brought forth by the parties.

B. *A parenting coordinator serves an educational function.* The parenting coordinator should educate the parties about child development, divorce research, the impact of their behavior on the children, parenting skills, and communication and conflict resolution skills. The parenting coordinator may coach the parties about these issues.

C. *A parenting coordinator serves a coordination/case management function.* The parenting coordinator should work with the professionals and systems involved with the family (e.g., mental health, health care, social services, education, legal) as well as with extended family, stepparents, and significant others.

D. *A parenting coordinator serves a conflict management function.* The parenting coordinator's primary role is to assist the parties to work out disagreements regarding the children to minimize conflict. The parenting coordinator may utilize dispute resolution skills from principles and practices of negotiation, mediation, and arbitration. To assist the parents in reducing conflict, the parenting coordinator may monitor the faxed, emailed, or written exchanges of parent communications and suggest more productive forms of communication that limit conflict between the parents. In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting coordinator should tailor the techniques used so as to avoid offering the opportunity for further coercion.

E. *A parenting coordinator serves a decision-making function.* When parents are not able to decide or resolve disputes on their own, the parenting coordinator shall be empowered to make decisions to the extent described in the court order, or to make reports or recommendations to the court for further consideration. Parenting coordinators should communicate their decisions in a timely manner in person or by fax, email or telephone. In the event decisions are provided orally, a written version shall follow in a timely manner.

F. *A parenting coordinator shall not offer legal advice* (AFCC, 2005, pp. 8-9).

Sullivan (2013) notes that the execution of a parenting coordination agreement and the basis for the appointment of the PC is essential, and that:

It should include the following: the authority for the role (by state statute, rule of court, or other derivation) and a checklist of the scope of PC authority; the term of appointment; the mandated procedures; the authority for accessing necessary information; a process for handling of fees; a grievance procedure; and, if possible, quasi-judicial immunity in performing the role. (p.60)

## 2.4 The Effectiveness of Parenting Coordination

Despite the growing interest in and use of parenting coordination in the last several decades, relatively little research has been reported examining the effectiveness of the process, the attitudes of professionals and members of the public towards it, the characteristics of parties who use parenting coordination, and characteristics and qualifications of PCs (Brewster et al., 2011). Most research on the effectiveness of parenting coordination has been anecdotal rather than empirical. As noted by Fieldstone et al. (2011):

judges have observed the reduction in court dockets as their high-conflict cases court ordered to parenting coordination resolve issues outside of their courtrooms; attorneys often chronicle increased cooperation in cases where parents were battling relentlessly before the [parenting coordinator] was appointed; and, mental health professionals sometimes report better adjustment for children when a [parenting coordinator] is involved with the parents (p. 803).

While such anecdotal observations certainly support the assertion that parenting coordination is an effective dispute resolution mechanism, empirical research that rigorously examines the parenting coordination process and hopefully compares it to other dispute resolution approaches, will provide the most robust test of the efficacy of the parenting coordination model. Although most of the research evidence that is available has been conducted in the United States, much of this research has relevance to the Canadian context.

In one of the earliest empirical studies of the effectiveness of parenting coordination, Johnston (1994; cited in AFCC Task Force on Parenting Coordination, 2003; Fidler, 2012; Kirkland & Sullivan, 2008), used a pre-parenting coordination / post-parenting coordination design and examined the number of court appearances before and after undergoing parenting coordination in 166 cases involving 16 different PCs over a two-year study period. Johnston (1994) found that the number of court appearances was 25 times fewer following the appointment of a special master, decreasing from 993 to 37.

Adopting a methodology similar to that used by Johnston (1994), Henry, Fieldstone and Bohac (2009) examined the court files of 49 couples to determine any changes in the number of motions filed by high conflict couples in the year before and the year after beginning to work with a PC as well as demographic characteristics of these individuals. Findings indicated that these 49 couples filed a total of 491 motions in the



year before beginning parenting coordination, compared to 254 motions filed in the year after starting parenting coordination, a decrease of almost 50%. Almost two-thirds (61.2%) of couples had a decrease in the number of motions from pre- to post-parenting coordination, 22.4% had an increase, and 16.3% had no change. Seven of the eight couples who had no change had filed no motions in either the year before or the year after starting parenting coordination. Of the motions that were filed after starting parenting coordination, there was a 75% decrease in child-related motions, from 116 in the year before starting parenting coordination to 29 in the following year. While these findings would have been strengthened by the use of a comparison group of cases that did not receive parenting coordination, they strongly suggest the efficacy of the process in decreasing litigation after the final order.

With regard to the demographic characteristics of the cases in their sample, Henry et al. (2009) reported that the most common length of time elapsing between first filing the case and beginning parenting coordination was between zero and two years. Only one-tenth of couples began parenting coordination between six and eight years after initiating their case. As noted by the authors, while one might hypothesize that parenting coordination would be more effective the earlier in a case it is initiated, findings indicated that parenting coordination success rates were not related to the length of time between start of the case and the start of parenting coordination. Among the 49 cases examined, 80 children were involved with the most common ages being between 5 to 8 and 9 to 12 years.

In another longitudinal study, Brewster et al. (2011) examined the court files of the first 21 cases in a new parenting coordination program in Arizona for two years prior to the start of parenting coordination and two years after a PC had been appointed. In an attempt to assess the use of court resources among these cases, the number of legal documents in each court file was counted during the two time periods. Findings indicated that in the two years prior to commencing parenting coordination, there was an average of 36.8 documents entered in the file; in the two years following the start of parenting coordination the average number of documents was 16.1, a decrease of 56%.

To assess the burden of these cases on judicial resources, Brewster et al. (2011) counted the number of hearings before and after starting parenting coordination. There was a substantial decrease of 83% in the average number of hearings, from 6.4 per case in the two years prior to parenting coordination to 1.1 following appointment of a PC. Further, there were 132.5 judicial changes to the parenting plan or divorce agreement ordered in these cases in the two years prior to starting parenting coordination and 63

changes ordered in the two years following the start of parenting coordination, a decrease of 52%.

For the 16 cases that were involved with the PC for the full two-year period, in the two years before starting parenting coordination, a total of 344 motions were filed by parents. This decreased by 64% to 123 motions in the two years following the start of parenting coordination. Brewster et al. (2011) also examined the type of motions made by the parties within four categories: financial; child; safety; and administrative. Findings indicated that the number of motions within each category decreased substantially and ranged from 61% for administrative motions to 69% each for financial and safety motions.

Brewster et al. (2011) also examined the number of outside agencies involved with these cases, such as child protection, drug testing, and supervised visitation and exchange agencies, and found that the number of agencies involved ranged from zero to four (average = 0.8) in the two years prior to parenting coordination and zero to one (average = 0.2) in the two years after starting parenting coordination. The authors note that “this finding demonstrates that parenting coordinator assignments have the potential to significantly reduce the disproportionate amount of resources that high-conflict families demand from both inside and outside the court system.” (p. 261)

Kirkland and Sullivan (2008) conducted a survey of professionals in the United States and Canada engaged in parenting coordination to examine their qualifications and professional associations and the characteristics of their practices. Completed surveys were received from 54 PCs who represented a mix of mental health and legal professionals. The professionals reported spending an average of 40% of their practice time on parenting coordination. All respondents said that they only conduct parenting coordination work in specific cases: either in response to a court order or by the mutual consent of both parties, and most said that they only do parenting coordination work when they have a specific, written agreement. All respondents said that they use a combination of individual and joint meetings with the parties; however, there was a trend among the more experienced PCs to use individual sessions as the main way of conducting parenting coordination.

Kirkland and Sullivan (2008) also collected information regarding whether PCs had received formal complaints about their work from disgruntled clients. A relatively small proportion of respondents (11%) had received a formal complaint to their professional bodies and these individuals were all mental health professionals. All complaints were ultimately dismissed with findings of no probable cause. Only one

individual had been involved in a civil suit related to their parenting coordination work.

Fieldstone et al. (2012) conducted surveys with judges and general magistrates, family law lawyers and PCs working in Miami-Dade County, Florida to examine their expectations, perceptions, and views of the effectiveness of parenting coordination. Findings indicated that lawyers' overall perceptions of parenting coordination were more positive as both their overall experience in family law, their number of cases involving parenting coordination, and their level of knowledge of parenting coordination increased. When asked about their expectations of the role and functions of PCs, the substantial majority of both judges and lawyers said that they expected that PCs would reduce parental conflict and provide recommendations, while over one-half of both judges and lawyers said that they expected that PCs would provide recommendations to the court and would refer parties to appropriate community resources as necessary. The majority of judges, lawyers and PCs thought that parenting coordination should be available to parents either at the discretion of the parties or by court order; however, almost all respondents said that joint consent to the parenting coordination process by both parties generally results in more positive outcomes than when parenting coordination is initiated by court order in the absence of the parents' consent.

In examining respondents' opinions regarding the efficacy of parenting coordination, Fieldstone et al. (2012) found that almost all judges and lawyers agreed that parenting coordination is helpful overall (PCs were not asked this question), and the substantial majority of judges, lawyers and PCs said that clients found the parenting coordination process either moderately or very helpful. Reasons given for why the process is helpful were that it: reduced parental conflict; assisted the time-sharing process; increased parental communication; and improved joint decision-making. The substantial majority of judges and lawyers said that the conflict level of the parties was either somewhat or significantly reduced after parenting coordination (PCs were not asked this question), and the substantial majority of judges, lawyers and PCs said that parenting coordination is either somewhat or clearly beneficial to the children involved in the case.

Fieldstone et al. (2011) conducted a survey of 67 PCs practicing in Florida. The survey collected information in several areas including: demographics such as profession and training; the parenting coordination process, including meetings with parents, communication practices, interaction with the court, and termination of the parenting coordination relationship; perceptions of characteristics and behaviour of parents before

commencing parenting coordination; the types of interventions used throughout the parenting coordination process; and the factors PCs believed contributed to the success or lack of success of their work.

Two-thirds (64%) of respondents to the Fieldstone et al. (2011) survey reported that they were mental health professionals while the remaining one-third had a legal background. At the time of completing the survey, respondents reported that they were carrying an average parenting coordination workload of 7.8 cases (range from 1 to 20). All legal professionals and almost all mental health professionals had received training in parenting coordination, family mediation, and domestic violence. The majority of respondents said that they met with parents once or twice per month over the course of the parenting coordination process.

Just over one-half of respondents estimated that between 60% to 80% of their cases had successfully met their goals; 11% said that 0% to 20% of their cases had met their goals, and 9% estimated that between 80% to 100% of their cases had met their goals. When asked what factors were most likely to contribute to successful cases, the most frequently chosen factors were: years of professional experience; skills and interventions as a PC; support from the court for the parenting coordination process; and improved skills of the parents as they go through parenting coordination. The top four factors that PCs thought contributed to unsuccessful cases were: parents' refusal to let go of unresolved issues; parents' inability or refusal to pay for parenting coordination services; untreated mental health issues or substance abuse among parents; and the interventions of lawyers involved with the case.

Fieldstone et al. (2011) found that interventions PCs frequently used with their clients were very similar regardless of whether they had mental health or legal backgrounds, and included:

- a) educating parents about the negative effects of conflict on their children;
- b) facilitating the resolution of issues that the parents had not been able to resolve on their own;
- c) teaching parents how to achieve agreements that are not characterized as having a winner and a loser;
- d) teaching parents to view their relationship as similar to those they would have with co-workers;
- e) helping parents make changes to their parenting plans so that new conflict can be minimized;
- f) teaching parents good e-mail manners; and

g) maintaining contact with one or both lawyers.

Only two interventions differed significantly between mental health and legal professionals. PCs with mental health backgrounds were more likely to report coaching parents on negotiation skills, while legally trained PCs were more likely to say that they advocated e-mail as an effective means of communication between the parents, with the PC copied on all e-mail messages.

Belcher-Timme et al. (2013) conducted a survey of 79 PCs that also examined the most common interventions used in parenting coordination and practitioners' views of their relative effectiveness. Following a review of the materials used by seven parenting coordination trainers, these authors developed a list of frequently used interventions classified within three broad categories. These interventions are reproduced in Table 1 (Belcher-Timme et al., 2013, p. 654).

Table 1  
Categories and prescribed interventions rated by survey respondents

Category	Interventions
Assessment and Conceptualization	Reviewing professional evaluations Identifying the parenting strengths and weaknesses of individual parents Assessing the general co-parenting skills of both parents Consideration of functioning and needs of children involved in the specific case
Education and Information	Informing parents about the developmental needs of their children Teaching effective communication skills for parents Providing information on the effects of high parental conflict on children
Case and Conflict Management	Communicating with other family members/caretakers Communicating with other professionals Interpreting court orders, custody agreements, and other legal documents Facilitating communication as an objective third party

Survey respondents were also asked which interventions within each category were most effective in parenting coordination. Within the Assessment and Conceptualization category, identifying parenting strengths and weaknesses, assessing co-parenting skills, and consideration of the functioning and needs of the children were all rated as equally effective and, in turn, reviewing previous professional evaluations was rated as significantly less effective than the other three interventions in this category. Belcher-Timme et al. (2013) suggest that this finding may be due, at least in part, to the fact that parenting coordination usually occurs after a divorce decree has been made. This means

that the court has already considered any other professional opinions that are available and they have likely already been incorporated into the parenting plan.

Within the Education and Information category, all three interventions were rated as equally effective by the survey respondents. With regard to interventions within the Case and Conflict Management category, analyses indicated that each of the four interventions differed significantly from each of the others in terms of perceived effectiveness. The most effective intervention was facilitating communication as an objective third party, followed by interpretation of legal documents and communicating with other professionals. The intervention that was rated as least effective in this category was communicating with other family members and caretakers.

Belcher-Timme et al. (2013) also examined whether there were any differences in the perceived effectiveness of the parenting coordination interventions by PCs with mental health versus legal backgrounds. The only intervention that differed significantly between these two groups was consideration of the functioning and needs of the children: PCs with a mental health background rated this intervention as significantly more effective than did PCs with a legal background.

The survey used in this study also asked PCs about the most common ways that they deliver services to their clients. The most common means of communicating with clients was face-to-face meetings with both parents present, followed, in order, by telephone calls, email correspondence, and face-to-face meetings with one parent. Internet conferencing, such as by Skype, and the use of social networking sites, such as Facebook, were used much less frequently than the other communication methods.

### 3.0 PARENTING COORDINATION IN CANADA

While parenting coordination is practiced in more than 30 states, only three Canadian provinces have widely-adopted parenting coordination processes among the range of alternative dispute resolution methods commonly used (Fidler, 2012; Sullivan, 2013). In Canada, interest in parenting coordination began in Ontario and was spearheaded by members of AFCC, and quickly spread to British Columbia and Alberta (Fidler, 2012). In 2006, the Canadian Co-parenting Centres, a registered charity based in Calgary that provides services such as parenting coordination to separating and divorcing couples, began an initiative to create the Canadian Parenting Coordinators Association (CPCA) and created an initial website for the Association.<sup>3</sup> Early enthusiasm for the initiative waned and, despite an attempt to renew efforts to create the CPCA in 2008, a national association has not been established to date. Subsequent efforts to create organized parenting coordination groups have taken place at the provincial level and will be discussed below.

All Canadian provinces and territories, with the exception of Quebec, allow parties with family law disputes to use arbitration to resolve their disputes under their provincial/territorial Arbitration Acts, which, in turn, allow for the arbitration component of the parenting coordination model (Fidler & Epstein, 2008). As noted above, however, it has historically been accepted in Canada that judges will not make an order that would have the effect of delegating their decision making authority to a third party. In the practice of parenting coordination in Canada this means that, unlike the practice in several states in the U.S., courts typically will not order parents to parenting coordination without the consent of both parties (Hunter & Eddy, 2014).<sup>4</sup> “Accordingly, parenting coordinators can be appointed by the court and have mediation and arbitral powers only if the parties consent to it and delegate the responsibility of decision-making to a third-party parenting coordinator” (Fidler & Epstein, 2008, p. 56). As in the U.S., a typical parenting coordination agreement in Canada will allow the PC to mediate a dispute and, if a resolution cannot be reached via mediation, to arbitrate the dispute and make a binding decision.

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<sup>3</sup> See <http://www.parentcoordinators.ca/index.htm>

<sup>4</sup> Legislation enacted in British Columbia (*Family Law Act*, S.B.C. 2011, c. 25) permits the ordering of parenting coordination without consent of the parents, and specifies that the parties are bound by the PC’s decisions.

This chapter provides a discussion of parenting coordination practices in Ontario, British Columbia and Alberta and highlights differences in how the practice developed and is conducted in each jurisdiction.

### 3.1 Ontario

Coincident with a growing recognition in Canada that the courts do not provide the most ideal mechanism for resolving the majority of family law disputes, interest in the use of mediation with these cases also increased (Fidler & Epstein, 2008). However, there was also a recognition that mediation was not effective in all cases, particularly those characterized by persistent high conflict, and interest in the parenting coordination work that was being done in the U.S. began to grow in Ontario in the 1990s. The hybrid mediation and arbitration model offered by parenting coordination was an attractive alternative method to deal with these difficult cases and minimize the amount of time they spent in the court system.

Parenting coordination in Ontario developed into a very similar dispute resolution process as in the U.S., and closely follows the AFCC guidelines. As in the U.S., parenting coordination in Ontario is intended to assist parents with implementing parts of their parenting plan or court order where they cannot come to an agreement on their own. Where agreement cannot be reached through initial mediation, the PC can arbitrate a binding decision to the issues in dispute. Similar to parenting coordination in other jurisdictions, the process is intended to assist with resolution of relatively minor, day-to-day parenting decisions, and cannot be used to address major decisions regarding custody and access. Unlike some other jurisdictions, there is no legislation or court direction for parenting coordination: in Ontario, parenting coordination must be voluntarily entered into by both parties and cannot be ordered by the court. Initially, Ontario PCs were exclusively mental health professionals; however, more recently, there has been growing interest among family law lawyers to pursue training in parenting coordination and incorporate it into their practices (Fidler, 2012).

In Ontario, authority for the arbitral component of parenting coordination was originally derived from provincial arbitration legislation (*Arbitration Act*, S.O. 1991, c. 17). Amid growing concern about the use of religious tribunals, particularly those operating under Sharia law, in arbitrating family law disputes, the government of Ontario amended the arbitration legislation to prevent the use of religious law in family law cases (*Family Statute Law Amendment Act*, S.O. 2006, c.1) (Fidler & Epstein, 2008). This legislation distinguishes family law arbitration from other types of arbitration, and the changes enacted by this legislation ensure that, for family law arbitrations to be



enforceable, they must be conducted in accordance with the law in Ontario or another Canadian jurisdiction and, further, must also be consistent with the *Family Law Act* (R.S.O 1990, c. F.3) (Direinfeld, n.d.).

Fidler and Epstein (2008) note that the amended arbitration legislation no longer allows parties to waive their right of appeal to the court. This goes against one of the basic objectives of parenting coordination, because it means that arbitral awards of PCs can never be considered completely final. These authors note that, in their experience, parties and their lawyers prefer a process that allows parties to waive their right of appeal. Other changes enacted by the 2006 amendments include a requirement that PCs screen all of their cases for domestic violence and power imbalances, that all arbitrations are anonymously reported to the Ministry of the Attorney General, and that records pertinent to the arbitration are retained for a minimum of 10 years (Fidler, 2012).

One important distinction that is made with regard to arbitration in Ontario is between primary and secondary arbitration. Primary arbitrations occur in situations where there is no prior agreement to arbitrate, and are generally unenforceable unless the agreement to arbitrate is entered into after the dispute to be arbitrated has occurred. Further, the parties to a primary arbitration are required to obtain independent legal advice before beginning the arbitration and someone other than the arbitrator must screen the parties for power imbalances and domestic violence (Direinfeld, n.d.). In contrast, arbitration arising out of parenting coordination is considered secondary arbitration because the issues to be decided have previously been set out in a parenting plan or separation agreement. Since it is assumed that the parties obtained independent legal advice at the time these earlier documents were drafted, the parties to a secondary arbitration are not required to obtain independent legal advice before starting the arbitration process. In addition, in secondary arbitration, the arbitrator is permitted to conduct the screening for power imbalances and domestic violence (Ontario Ministry of the Attorney General, n.d.). Arbitrators, including PCs, are required by legislation to have completed training in identifying domestic violence and power imbalances.

The Family Dispute Resolution Institute of Ontario (FDRIO) has taken on an accreditation role for parenting coordination in the province. FDRIO is a non-profit organization that aims to support dispute resolution professionals in Ontario, and to educate the public regarding the many family dispute resolution options that are

available to them.<sup>5</sup> Because there is no legislative or court direction for parenting coordination in Ontario, FDRIO developed a set of standards for PCs that were an adaptation of the AFCC and British Columbia Guidelines (see Appendix A).

Professionals who apply and meet a stringent set of qualifying guidelines receive the designation of Certified Specialist in Parenting Coordination. Candidates for this designation must be a licensed mental health practitioner or legal professional in an area related to families and have completed training in several areas, including:

- a) combined basic and advanced family mediation theory and skills training;
- b) family relations (mental health professionals are exempt from this requirement);
- c) family law (legal professionals are exempt);
- d) family law arbitration;
- e) parenting coordination basic course; and
- f) screening for domestic violence and power imbalances.

FDRIO also has a comprehensive policy for dealing with any complaints about the work of its members. In addition to the professional designation offered for parenting coordination, FDRIO also offers certification in family mediation and family arbitration.

### **3.2 British Columbia**

Interest in parenting coordination in British Columbia has been strong since the mid-2000s, and the practice is now widely used throughout the province. In early 2006, the BC Parenting Coordinators steering committee composed of three family law lawyers and mediators (Phyllis Kenney, Nancy Cameron, and John-Paul Boyd) and one mental health professional (Deborah Brakeley) began to examine the use of parenting coordination as a mechanism for dealing with the issues faced by high conflict parents (Neville, 2007). This group brought in one of the pioneers of parenting coordination in California, Dr. Joan Kelly, to conduct a series of training workshops with professionals interested in incorporating parenting coordination into their practices. Following the training sessions with Dr. Kelly, the steering committee established a number of sub-committees to examine the issues related to parenting coordination in British Columbia and to begin promoting it across the province. An initial roster of PCs was developed in 2007, and the steering committee incorporated the BC Parenting Coordinators Roster

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<sup>5</sup> See the FDRIO website for an overview of the organization and the parenting coordination designation: <https://www.fdr.io/>.

Society as a non-profit organization in 2009.<sup>6</sup> The Society serves as an educational, governance and oversight body for its members, and its mandate is to:

- govern the practice of parenting coordination by roster members in the public interest in accordance with the *Family Law Act*, S.B.C. 2011, c. 25 (“*FLA*”);
- set standards for competent and ethical practice;
- promote excellence among practitioners; and
- impose any one or more of a series of escalating outcomes upon a roster member when standards are not met, including remedial work, suspension or removal from the Roster. (BC Parenting Coordinators Roster Society, 2013, p. 1)

One of the first tasks of the Society was to develop guidelines for the practice of parenting coordination in British Columbia (BC Parenting Coordinators Roster Society, 2013). The Guidelines were adapted from the AFCC (2005) guidelines and were first published in 2011. The guidelines were revised in 2013 to ensure compliance and consistency with BC’s new *FLA*. The guidelines provide detailed information for the practice of parenting coordination in terms of minimum qualifications, ethical obligations and conduct, and practice and procedure; see Appendix B.

The qualifications that PCs in British Columbia are expected to meet are based on those specified in the British Columbia Family Law Act Regulation and include (emphasis added):

- a parenting coordinator *must* be a member of a designated professional organization as provided in the Regulations pursuant to the *FLA*;
- a parenting coordinator *must* have training and experience in family mediation... and should endeavour to become a certified mediator with Family Mediation Canada or qualified for admission to the family roster of Mediate BC in accordance with the requirements of the respective professional bodies;
- a parenting coordinator *must* have specific training in parenting coordination processes and techniques, family dynamics in separation and divorce and family violence screening;

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<sup>6</sup> See the Society’s website at <http://www.bcparentingcoordinators.com/>.

- a parenting coordinator *should* have extensive practical experience in the profession with high conflict or litigating parents;
- a parenting coordinator *should* participate in peer consultation and/or mentoring to receive feedback and support on cases;
- a parenting coordinator *must* maintain professional competence in parenting coordination and *must* regularly participate in continuing educational activities promoting professional growth;
- a parenting coordinator *must* decline an appointment, withdraw or request appropriate assistance when the facts and circumstances of the case are beyond the parenting coordinator's skill or expertise; and
- a parenting coordinator seeking to be accepted by the Society as a roster member *must*, at a minimum, be of character satisfactory to the Society and meet the requirements set out by the Membership Committee, from time to time. (BC Parenting Coordinators Roster Society, 2013, p. 3)

BC's *FLA*, which came into force in 2013, explicitly addresses the practice of parenting coordination, specifies that PCs may serve either by agreement of both parents or by court order, authorizes the court to appoint PCs, and further stipulates that the parties are bound by any arbitral decisions made by the PC (Fidler, 2012; Neville, 2013). The legislation also specifies that the initial parenting coordination agreement cannot be for longer than two years, but that extensions to the agreement can be made provided that each extension does not exceed two years. Section 19(1) of the *FLA* (ss. 19(1)) further states that the only grounds for the court to change or set aside a decision made by a PC is if he or she acted outside of his or her authority or made an error of mixed law and fact.

The Family Law Act Regulation also explicitly outlines the matters in which PCs are permitted and not permitted to make decisions when exercising the arbitral component of their role, as follows:

(3) The following are the matters in respect of which a parenting coordinator may make determinations:

- (a) parenting arrangements;
- (b) contact with a child.

(4) For the purposes of subsection (3), a parenting coordinator:

(a) may make determinations in respect of

- (i) a child's daily routine, including a child's schedule in relation to parenting time or contact with the child,
- (ii) the education of a child, including in relation to the child's special needs,
- (iii) the participation of a child in extracurricular activities and special events,
- (iv) the temporary care of a child by a person other than
  - (A) the child's guardian, or
  - (B) a person who has contact with the child under an agreement or order,
- (v) the provision of routine medical, dental or other health care to a child,
- (vi) the discipline of a child,
- (vii) the transportation and exchange of a child for the purposes of exercising parenting time or contact with the child,
- (viii) parenting time or contact with a child during vacations and special occasions, and
- (ix) any other matters, other than matters referred to in paragraph (b), that are agreed on by the parties and the parenting coordinator, and

(b) must not make determinations in respect of

- (i) a change to the guardianship of a child,
- (ii) a change to the allocation of parental responsibilities,
- (iii) giving parenting time or contact with a child to a person who does not have parenting time or contact with the child,
- (iv) a substantial change to the parenting time or contact with a child, or
- (v) the relocation of a child.

### 3.3 Alberta

While there has been interest in parenting coordination in Alberta for many years, the province lags behind both Ontario and British Columbia in developing a formal

structure within which it operates. Historically, parenting coordination in Alberta has been offered primarily by mental health professionals, although growing numbers of legal professionals have started to provide parenting coordination services (Fidler, 2012). The Alberta Family Mediation Society (AFMS) has assumed an accreditation function and created the designation of Registered Parenting Coordinator and Arbitrator (RPCA). It is interesting that AFMS separated the PC and arbitrator roles in the designation, since in other jurisdictions, the arbitral function is viewed as a critical component of parenting coordination. Indeed, while AFMS's discussion of the scope of practice for RPCAs does mention the decision-making function of the RPCA, this role seems to be downplayed by stating that a RPCA can make a *recommendation* that is binding on the parents:

The role of a Registered Parenting Coordinator and Arbitrator (RPCA) is to facilitate communication and cooperation between parents for the purpose of effectively co-parenting their children. An RPCA's role includes facilitation, education and consultation and involves meeting with the parents to establish cooperative parenting plans and to assist in dispute resolution using mediation skills. An RPCA may offer professional advice and recommendations regarding the needs of children. The RPCA may assist parents with any number of parenting issues related to the needs of the children, including adjustments parents may make to the parenting time schedule, selection of medical personnel or professionals, the choice of education and extracurricular activities for the children....

The RPCA may gather information from the parents and other additional information as necessary (e.g. data from schools, child care individuals, medical providers, mental health counsellors and the like) and then make a recommendation, which the parents are bound to follow. The parents and the RPCA agree to reserve the right to revisit the issue in the future over time and with the availability of additional information or documentation. (Alberta Family Mediation Society, n.d)

This description also indicates that a RPCA's role includes *meeting with the parents to establish cooperative parenting plans*, which implies that parenting coordination in Alberta, unlike in other jurisdictions, can be used to develop parenting plans and thus is not strictly a post-parenting plan or post-parenting order dispute resolution process.

Unlike both Ontario and British Columbia, which drew heavily on the AFCC's (2005) guidelines for parenting coordination, AFMS does not mention these guidelines in its discussion of the roles and functions of RPCAs. AFMS does, however, have an extensive set of qualifications that individuals seeking the designation of RPCA must meet. These qualifications include (AFMS, n.d.):

### Education and Experience

All RPCAs must meet the following education and experience descriptions:

- A Law degree or a Master-level degree in one of the following: Psychology, Social Work, Education, Conflict Resolution or other related field
- 5 years of experience, post degree, working with family and children related issues

### Basic Mediation and Other Training Requirements

1. In addition to, or as part of, the above qualifications, all RPCAs must have completed generic conflict resolution courses, totaling a minimum of 35 hours which have covered all of the following areas:

- Conflict Resolution
- Negotiation
- Communication
- Interest-based Mediation
- Mediation skills

2. In addition to, or as part of, the above qualifications, all RPCAs must submit evidence of the following:

- For those who are NOT lawyers: 20 hours of family law training and 20 hours of Parenting Coordination training – at least 3 hours of which must be in Domestic Violence training

- For those who are NOT mental health professionals: 20 hours of child development training and 20 hours of Parenting Coordination training

### Specialized Mediation and Arbitration Training

1. All RPCAs must complete an additional 35 hours of specialized training covering all of the following subject areas:

- Definition of Mediation and Introduction to Mediation Process
- Role of Mediator
- Mediator Techniques *\*must include a practical component, i.e., role plays*
- Intake Session – a discussion of: Pre-Mediation Sessions vs. No Pre-Mediation Sessions *\*must include a practical component*
- Child Development as related to separation and divorce
- Research outlining the effects of divorce on children
- Parenting Plans – including contact plans between parents and children, special holidays / events, custody (decision making authority), dispute resolution, basic principles concerning children
- Child Support Guideline Training
- Property, Pension and Tax Law
- Interest based Negotiation *\*must include a practical component*
- Spousal Support
- Domestic Violence *\*must include a practical component, i.e., practice with screening protocols*
- High conflict divorce
- Attend Parenting After Separation Course and/or review course materials
- Ethics / liabilities and standards of practice in Mediation
- Review of Code of Professional Conduct
- Current trends in Case Law as it applies to Mediation
- Approaches to conflict resolution including current research
- Communication process *\*must include a practical component*
- Collaborative divorce mediation (using the assistance of other professionals)
- Drafting Mediation Reports *\*must include a practical component, i.e., draft a final report*



2. All RPCAs must complete an additional 35 hours of specialized training in Arbitration which includes a full assessment and writing of an Award.

### Professional Body Membership

All RPCAs must be members in good standing of a regulated professional body.

### Ongoing Activity and Education

All RPCAs must complete a minimum of 50 hours of mediation and/or arbitration per year. (Please note that Collaborative Law files do not qualify for this activity requirement.)

In addition, RPCAs must complete a minimum of 20 hours of continuing education in mediation or arbitration, or related topic areas, and additionally a minimum of 20 hours of parenting coordination or related topic areas (e.g. child development, domestic violence, family law issues related to parenting) every two years.

While there is no specific legislative basis for parenting coordination in Alberta, the arbitration component is governed by the *Family Law Act*, S.A. 2003, c F-4.5 and the *Arbitration Act*, R.S.A. 2000, c A-43. In the Court of Queen’s Bench, Practice Note 7 authorizes the judicial appointment of and interventions by “Parenting Experts” in cases where families are in a state of high conflict and court intervention is required.<sup>7</sup> The goal of interventions under Practice Note 7 is similar to parenting coordination in that both are intended to assist the parties in resolving their conflicts. As noted by Suche and Boyd (2017):

Parenting experts engaged under Practice Note 7 do not provide opinions or recommendations as to the best interests of the children or as to issues such as custody and access. They provide information of limited scope to assist the court with decision-making, including voice of the child reports and psychological evaluations of the parents, and may also provide mediation, parenting coordination and therapeutic services to individuals and families. (p. 2)

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<sup>7</sup> See <https://albertacourts.ca/docs/default-source/Court-of-Queen%27s-Bench/practicenote7-interventions---final.pdf?sfvrsn=0>

The Practice Note further states that the court may delegate its decision-making authority to a parenting coordinator/arbitrator, where both parties have consented to this. The practice note specifies that the court order appointing a parenting expert in this role should clearly state the nature of the decisions that the expert has the authority to make. It is important to emphasize that Practice Note 7 stipulates that in cases where a parent refuses to consent to an intervention under the Note, the court can dispense with that parent's consent and order the intervention to proceed. However, with regard to the appointment of a parenting coordinator/arbitrator under the Practice Note, the Note is clear that the decision-making authority of the court may only be delegated to the expert on consent of *both* parties.

## 4.0 CONCLUSIONS AND RECOMMENDATIONS

### 4.1 Conclusions

Parenting coordination is one of several alternative dispute resolution mechanisms that have the goal of reducing conflict and litigation between parents whose relationship has broken down. Parenting coordination is a child-centred process that seeks to assist former spouses, whose post-separation communication is characterized by high conflict, in managing their conflict and co-parenting in a manner that is less detrimental to their children. Parenting coordination uses a number of strategies to accomplish its goals, including assessment, education, coordination and case management, conflict management, mediation and, where necessary, decision-making. A number of characteristics distinguish parenting coordination from other dispute resolution processes:

- parenting coordination is intended to aid parents in implementing their existing parenting plan, rather than assisting in the development of a parenting plan;
- a PC first attempts to assist parents in resolving parenting plan implementation disputes via mediation. If mediation fails, the PC has the authority to arbitrate the dispute, with the resulting decision being binding on the parties;
- parenting coordination is a non-confidential dispute resolution process, meaning that PCs have the authority to report on their cases to the court, and to solicit the input of other professionals directly and indirectly involved with the case, such as therapists, teachers and physicians; and
- parties sign a contract for the services of the PC for a specified period of time, usually between one and two years.

The research literature examining the effectiveness of parenting coordination is surprisingly sparse given the popularity of the process, and what is available is largely anecdotal rather than empirical. Research on parenting coordination is especially lacking in Canada. The available evidence from the United States, however, does suggest that parenting coordination is quite effective in achieving its intended goals. Findings related to the effectiveness of parenting coordination include:

- a) a substantial reduction in the number of court appearances from before to after commencing parenting coordination;

- b) a substantial reduction in the number of motions filed in the year after starting parenting coordination than in the preceding year;
- c) a considerable reduction in the number of legal documents entered into a court file from the two years before starting parenting coordination to the two years after;
- d) a substantial decrease in the number of hearings and the number of judicial changes to the parenting plan from two years before starting parenting coordination to two years after;
- e) a reduction in the number of outside agencies involved with families from two years before parenting coordination to two years after;
- f) parenting coordination success rates are unrelated to the length of time between the commencement of the case and starting parenting coordination, suggesting that parenting coordination can be helpful for all parents experiencing conflict following making a final parenting plan or agreement;
- g) a relatively small number of PCs reported that they had received a complaint to their professional bodies related to their parenting coordination work and, in one study reviewed, all complaints were dismissed; and
- h) judges and lawyers generally agreed that parenting coordination is helpful for parties and their children and that it reduces conflict levels between parties.

In Canada, the provinces of Ontario, British Columbia and Alberta have widely adopted parenting coordination processes. In Ontario and British Columbia, the development of parenting coordination very closely followed the guidelines established by the Association of Family and Conciliation Courts (AFCC). Unlike many jurisdictions in the U.S., in Ontario there is no legislation or court direction for parenting coordination; both parties must voluntarily enter into the process and parenting coordination cannot be ordered by the court. Initially, PCs in Ontario were exclusively mental health professionals; however, more recently there has been growing interest among legal professionals to incorporate parenting coordination into their practices. The Family Dispute Resolution Institute of Ontario (FDRIO) has assumed responsibility for offering a designation for PCs in that province and has developed a set of standards for PCs that were based on the guidelines developed by AFCC and the BC Parenting Coordinators Roster Society. Professionals who apply and meet a stringent list of qualifying criteria receive the designation of Certified Specialist in Parenting Coordination by the FDRIO.

Interest in parenting coordination in British Columbia began to gain momentum in the mid-2000s with the establishment of the BC Parenting Coordinators steering committee. This group arranged to bring in Dr. Joan Kelly, one of the pioneering and most well-

known PCs in the U.S., to conduct several training sessions with interested professionals. An initial roster of PCs was developed in 2007 and the BC Parenting Coordinators Roster Society was incorporated as a non-profit organization in 2009. This society serves as an educational, governance and oversight body for its membership and one of its first tasks was to establish guidelines for the practice of parenting coordination in British Columbia, which were largely adapted from the AFCC guidelines.

While there has been interest in parenting coordination in Alberta for many years, the province is not as advanced as either Ontario or British Columbia in developing a formal structure to oversee the practice. Although parenting coordination was historically offered in Alberta primarily by mental health professionals, interest in the practice among members of the legal community has been growing in recent years. The Alberta Family Mediation Society (AFMS) has assumed an accreditation function for parenting coordination and offers the designation of Registered Parenting Coordinator and Arbitrator (RPCA) to professionals meeting its criteria. It is interesting that the AFMS separated out the parenting coordinator and arbitrator roles in establishing this designation since, in other jurisdictions, the arbitral function is viewed as a critical component of parenting coordination. Guidelines for the practice of parenting coordination in Alberta have not yet been established, although AFMS does have an extensive set of qualifications for professionals seeking the designation.

## 4.2 Recommendations

The review presented in this paper leads to recommendations for the practice of parenting coordination in Alberta and Canada. Both Ontario and British Columbia have adopted guidelines for the practice of parenting coordination based on those developed by the AFCC in the U.S., and it would be beneficial for Alberta to do so as well. Given that parenting coordination can be ordered in Alberta under Practice Note 7 interventions on the consent of both parties, those developing guidelines for Alberta would need to examine whether this unique route to obtaining parenting coordination has any implications for the use of this process in the province in that context. Since the Alberta Family Mediation Society (AFMS) has already developed a set of qualifications and a designation for PCs and maintains a roster of professionals in the province who practice parenting coordination, that organization might wish to take on the task of drafting guidelines. If so, the society should consider changing the designation from “Registered Parenting Coordinator and Arbitrator” to “Registered Parenting Coordinator” to bring the designation in line with practices elsewhere. Conversely, since Alberta has recently formed a provincial chapter of AFCC, this organization

would also be well-placed to undertake the task of developing Alberta-specific parenting coordination guidelines, perhaps in partnership with AFMS.

This paper also identified that, although parenting coordination has become a very popular dispute resolution process that is widely used in the U.S. and in some Canadian provinces, the empirical research on its procedures and processes and effectiveness is sparse in both the U.S. and Canada. Further, virtually no research has been conducted comparing parenting coordination to other dispute resolution processes, including litigation. As noted by Fidler (2012), longitudinal research is needed that not only looks at the effectiveness of parenting coordination, but also compares the outcomes of parenting coordination with other dispute resolution methods. The ideal research methodology would involve random assignment of couples to different processes, and then monitoring their experiences and outcomes, although it is often very difficult to adopt this methodology in the real world as a result of the obvious ethical concerns. At a minimum, an attempt should be made to match parties who participate in different dispute resolution processes on various characteristics such as level of conflict prior to beginning the process, extent of court involvement before starting the process, number and age of their children, and length of their relationship.

Specific areas that require further research, especially in the Canadian context, include:

- What should be the qualifications and areas of expertise of professionals who practice parenting coordination?
- What are the characteristics of parties and disputes for whom parenting coordination is successful and unsuccessful?
- What are the levels of satisfaction with parenting coordination of parents, parents' counsel, PCs and the judiciary?
- What is the effect of parenting coordination on children, both in the short- and long-term? Does parenting coordination shield children from conflict? Does parenting coordination improve children's ability to cope with parental conflict?
- Does parenting coordination lead to higher levels of psychological adjustment, both for parties and their children? Are any improvements in adjustment sustained in the long-term?
- Is there a particular time period after separation when parenting coordination provides the best outcomes?
- Does parenting coordination lead to diminished court involvement, both in the short- and long-term?

- Are any reductions in the level of conflict between the parties during the parenting coordination process sustained in the long-term?
- Does parenting coordination enhance the quality of each party's parenting? Does it promote parents' ability to resolve disputes on their own?
- What is the cost to parties of parenting coordination, compared to other dispute resolution processes, including litigation? What are the cost savings to the court of parenting coordination, compared to litigation?
- Are there differences in the outcome of parenting coordination for parties who have legal representation compared to those who are self-represented?
- To what extent is parenting coordination effective in non-traditional family systems such as same-sex and polyamorous relationships?

Research addressing questions such as these would be extremely useful in determining if efforts should be made to have parenting coordination available in other Canadian jurisdictions.

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**APPENDIX A:**

**FAMILY DISPUTE RESOLUTION INSTITUTE OF ONTARIO'S  
PARENTING COORDINATION STANDARDS OF PRACTICE**

# PARENTING COORDINATION STANDARDS OF PRACTICE

## FOREWORD

These standards for parenting coordination in Ontario for FDRIO (“Standards”) are based on the Standards created in 2005 by the interdisciplinary AFCC Task Force on Parenting Coordination and modified and adapted by the BC Parenting Coordinators Roster Society in 2011, to the extent appropriate.

**The mandate of the FDRIO Parenting Coordination Section is to:**

1. create and administer a Parenting Coordination Certification designation that reflects the best practices for competent and ethical service in the public interest.
2. promote excellence among practitioners, including establishing criteria for ongoing training and updating standards from time to time as appropriate.
3. provide guidance and recommendations to the FDRIO Professional Complaints Committee in those cases where FDRIO certified Parenting Coordinators are alleged to have failed to comply with the FDRIO Standards of Practice for Parenting Coordination.

## STANDARDS FOR PARENTING COORDINATION OVERVIEW AND TERMS USED

Parenting coordination is a hybrid legal/mental health process of consensual dispute resolution. It combines assessment, education, case management, conflict management and decision making functions. Parenting coordination is differentiated from mediation/arbitration by the scope of the Parenting Coordinator’s authority with respect to the quantum of time, designation of decision making authority, and mobility issues. In particular, the scope of a Parenting Coordinator’s authority is defined by s. 59.7 of the Family Law Act.

The objective of the parenting coordination process is to assist parents in high conflict circumstances to protect and sustain safe, healthy and meaningful parent-child relationships by: educating parents about children’s needs and the effect of parental conflict on them, implementing parenting plans, monitoring compliance with the details of the plan, and resolving conflicts regarding the children and the parenting plan in a timely manner. The delegation of decision-making authority is a serious issue and only qualified professionals should be appointed to the role.

Parenting Coordination is a private, contractual, voluntary dispute resolution process. Although a Parenting Coordinator can be recommended by the Court for those high conflict parents who have demonstrated an inability or unwillingness to make parenting decisions on their own, comply with parenting agreements and orders, reduce child-related conflicts, or protect their children from the impact of that conflict, it

is questionable whether judges in Ontario currently have the authority in Ontario to make an order for a Parenting Coordinator, even on consent.

A Parenting Coordinator may, however, be appointed by agreement of the parties to provide the various functions identified above. If the parties wish an “open” form of Parenting Coordination, their agreement may authorize the Parenting Coordinator to provide a written or oral report to the court.

The parenting coordination process is child-focused and practiced only by experienced mental health or legal professionals who have specialized training and experience in conflict management, high conflict families, mediation and adjudication.

A Parenting Coordinator must routinely screen prospective and ongoing cases for domestic violence and power imbalances and shall accept, decline, design and terminate such cases on the basis of specialized training and expertise.

These Standards provide detailed guidance for Parenting Coordinators concerning minimum qualifications, ethical obligations and conduct and practice and procedure. These Standards refer to different levels of guidance as follows:

- the term “may” in a Standard is the lowest form of guidance and indicates a practice that the Parenting Coordinator should consider adopting, but from which the Parenting Coordinator may deviate in the exercise of good professional judgment;
- the term “should” indicates that the practice described in the Standard is highly recommended and should only be departed from in exceptional or compelling circumstances; and
- the term “must” in a Standard denotes the highest level of direction, indicating that the described practice is mandatory.

There are eleven best practice Standards, including statements of underlying principles, to assist Parenting Coordinators in identifying how best to conduct themselves and their practices in the discharge of their appointed duties in compliance with the governing legislation and the Parenting Coordination Agreement.

*In these Standards the following terms will have the following meaning:*

“Assessor” means a person appointed under s. 112 of the Courts of Justice Act or Section 30 of the Children’s Law Reform Act to assess: (a) the needs of a child(ren) in relation to a family law dispute; and (b) the ability and willingness of a party to a family law dispute to satisfy the needs of a child.

“Parenting Coordinator” means a person who has successfully met the Certified Specialist in Parenting Coordination designation requirements with the Parenting Coordination Section of FDRIO.

“Parenting Coordination Agreement” means a parenting coordination agreement that complies with best practices in the drafting of Parenting Coordination agreements;

“Parenting plan” means an agreement, Order or written decision concerning parenting arrangements and contact with a child(ren).

“Parties” means the persons named in a Parenting Coordinator Agreement.

## **STANDARD I - QUALIFICATIONS**

1.01 A Parenting Coordinator must be designated as a Certified Specialist in Parenting Coordination from the Parenting Coordination Certification Section of FDRIO.

## **STANDARD II - JURISDICTION**

2.01 A Parenting Coordinator may only serve under the terms of a Parenting Coordination agreement which provides the authority to work with the parents outside of the adversarial process, obtain information, make recommendations and make determinations as to the matters specified in the agreement.

2.02 A written Parenting Coordination agreement must clearly and specifically define the Parenting Coordinator’s scope of authority and responsibilities. That agreement must comply with the requirements of the Arbitration Act, 1991, and the Regulations under that Act. In particular, the parties must have at a minimum the right to appeal an Award made by a Parenting Coordinator on a question of law, with leave from the court as provided in Section 45 (1) of the Arbitration Act, 1991.

2.03 As well as jurisdiction, the Parenting Coordination written agreement must address all essential elements of the contract between the parties and the Parenting Coordinator including fees, retainers, services and billing practices.

2.04 The Parenting Coordination agreement must specify a term of appointment for the Parenting Coordinator, including starting and ending dates, renewal terms, and termination rights.

2.05 A Parenting Coordinator must not provide services until the Parenting Coordinator has conducted confidential, without prejudice intake meetings with the parties for the purpose of screening for power imbalances including domestic violence, and assessed whether the case is appropriate for the process, and received a signed Parenting Coordination agreement.

### **STANDARD III - INFORMED CONSENT**

3.01 A Parenting Coordinator must at the outset of the process

- (a) review with the parties the nature of the Parenting Coordinator's role; and
- (b) be satisfied that the parties understand
  - (I) the nature of the process, including their alternatives to using the Parenting Coordination process;
  - (ii) the extent of the authority assigned to the Parenting Coordinator;
  - (iii) the limited nature of the confidentiality of the process, particularly if the parties are choosing an open form of Parenting Coordination;
  - (iv) the third parties with whom the Parenting Coordinator will be authorized to consult or obtain information from; and,
  - (v) their rights in seeking a review by the court.

### **STANDARD IV - IMPARTIALITY AND CONFLICT OF INTEREST**

4.01 A Parenting Coordinator must maintain impartiality in the process of parenting coordination. In this Standard, "impartiality"

- a. means freedom from favouritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual; and
- b. does not mean that a Parenting Coordinator must be neutral regarding particular conduct or the outcome of a particular determination.

4.02 A Parenting Coordinator must withdraw if the Parenting Coordinator determines that they cannot act in an impartial manner.

### **STANDARD V - CONFIDENTIALITY & TRANSPARENCY**

5.01 Parenting coordination is not a confidential process for communications among,

- (a) the parties, their children and the Parenting Coordinator;
- (b) the Parenting Coordinator and other relevant parties to the parenting coordination process, and,



(c ) in an Open Parenting Coordination process, the parties, the Parenting Coordinator and the court or an arbitrator.

5.02 Subject to, (a) the legal limitations on confidentiality; (b) permitted professional purposes as defined in the Parenting Coordination agreement; and (c) express provisions of the Parenting Coordination agreement permitting the Parenting Coordinator to provide a report to the court or arbitration hearing, or be called as a witness in a proceeding, a Parenting Coordinator must maintain confidentiality and information obtained as part of the Parenting Coordination process must not be shared outside of the parenting coordination process for any purpose.

5.03 Before entering into a Parenting Coordination agreement, the Parenting Coordinator must inform the parties of the limitations on confidentiality as provided in this Standard and, the Parenting Coordination Agreement in particular, that:

(a) any concerns about possible child abuse or neglect must be reported to child protective services in accordance with applicable child protection legislation; and

(b) the Parenting Coordinator must warn a party or third party and/or report to law enforcement or other authorities if the Parenting Coordinator has reasonable grounds to believe that a party or any person presents a serious risk of harm to self or others.

5.04 The Parenting Coordinator must use a methodology that is fair and transparent to both parties. Each party must be given a reasonable opportunity to understand the arguments made by the other party, to respond to them, and to be heard. Reasonable notice must be given as to what is expected from the participation of the parties and the consequences of non-participation. If one party refuses to cooperate after reasonable notice, the Parenting Coordinator may continue to resolve the dispute or withdraw from the process in accordance with the terms of the Parenting Coordination Agreement.

5.05 In the event that a Parenting Coordinator communicates with a third party in the course of the parenting coordination process (with the written consent of the parties) , the Parenting Coordinator should notify such third party that information obtained from them is not confidential and that it may be used in making decisions or writing reports or recommendations or testifying in court.

## **STANDARD VI - CONFLICTS OF INTEREST**

6.01 A Parenting Coordinator must not serve or continue to serve in a matter in which there is a conflict of interest, including situations in which the impartiality of the Parenting Coordinator is compromised or reasonably appears to be compromised, except as specifically provided in this Standard.

6.02 During the term of a parenting coordination appointment, a Parenting Coordinator must not create a conflict of interest by providing any services to interested parties that are not directly related to the parenting coordination process.

6.03 A Parenting Coordinator must, before the parties enter into a Parenting Coordination agreement, disclose all known potential or potentially perceived conflicts of interest. After signing the Parenting Coordination agreement, the Parenting Coordinator shall disclose all known or potentially perceived conflicts of interest as soon as the Parenting Coordinator becomes aware of any interest or relationship giving rise to the potential or potentially perceived conflict.

6.04 After appropriate disclosure, the Parenting Coordinator may serve, or continue to serve, with the written agreement of all parties or, if the parties do not agree, in the Parenting Coordinator's discretion. If a party challenges the Parenting Coordinator's impartiality, the Parenting Coordinator has the jurisdiction to rule on the matter. However, if the conflict of interest clearly impairs a Parenting Coordinator's impartiality, the Parenting Coordinator must withdraw regardless of the express agreement of the parties.

6.05 A Parenting Coordinator may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, benefits or similar remuneration must be received or given by a Parenting Coordinator for referrals.

## STANDARD VII - SEQUENTIAL OR MULTIPLE ROLES

7.01 A Parenting Coordinator must not serve in sequential or multiple roles in a case that creates a professional conflict, including<sup>8</sup>:

- a. a party's lawyer, a child's lawyer or a child advocate must not be appointed as a Parenting Coordinator in the same case;
- b. a Parenting Coordinator must not be appointed as the lawyer for one party or a child either during or after the term of the Parenting Coordinator's appointment with the family;
- c. a Parenting Coordinator must not be appointed as an assessor either during or after the term of the Parenting Coordinator's appointment with the family; and
- d. a Parenting Coordinator must not become a therapist, assessor, consultant, coach, or other mental health care provider, separate and apart, to a party or a child, either during or after the term of the Parenting Coordinator's appointment with the family.

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<sup>8</sup> When avoiding multiple relationships is not feasible (example in small communities), the prior relationship must be fully disclosed to the parties and counsel and they must provide informed consent.

7.02 A mediator or assessor should exercise caution about accepting an appointment as Parenting Coordinator in the same case, even with the written consent of the parties, because of the differences in the role and potential impact of the role change. However, such an appointment is permissible in appropriate circumstances. Parties must be advised to obtain independent legal advice before they may consent to such an appointment.

7.03 A Parenting Coordinator should, unless circumstances are urgent, always attempt to facilitate resolution of issues by consensual agreement of the parties. Dispute resolution efforts, which may use of therapeutic, mediation, educational and negotiation skills, do not disqualify a Parenting Coordinator from deciding an issue that remains unresolved after efforts of consensus building within the limit of authority provided in the applicable Parenting Coordination Agreement. In this regard, the parents waive s.35 of *The Arbitration Act, S.O. 1991, c.17*.

## **STANDARD VIII - ROLE & FUNCTION OF THE PARENTING COORDINATOR**

8.01 The Parenting Coordinator will help the parents to resolve parenting issues in a way that helps to promote the best interests of the children and minimize parental conflict.

8.02 The Parenting Coordinator's function includes both consensus-building and decision-making components. The parents understand that, unlike the process of mediation in other contexts, neither is able to unilaterally withdraw from the process of Parenting Coordination for the duration of the term of their Parenting Coordination agreement, although both parties may at any time agree jointly to withdraw.

8.03 To carry out this role, the Parenting Coordinator shall first meet individually and confidentially with each party for the purpose of screening for power imbalances and family violence, and in particular to identify, assess and determine how to manage risk in the process if it is otherwise suitable for the Parenting Coordination process. Once the Parenting Coordinator has accepted the case and entered into a Parenting Coordination agreement with the parties, the Parenting Coordinator, in their discretion, may:

- meet with the parents jointly or individually, or with their children when the Parenting Coordinator decides it is appropriate, with the timing, frequency and duration of meetings determined by the Parenting Coordinator;
- coach the parents about communication with each other and with their child(ren) with the goal of helping the parents acquire the skills and experience to resolve future parenting disputes without the involvement of the court or third parents;

- refer the parents to appropriate resources about parenting, communication techniques, dispute resolution or personal coaching, therapy or other related services;
- consult with third parties, including other Parenting Coordinators, counsellors, mental health professionals and independent legal counsel;
- attempt to resolve a dispute referred to the Parenting Coordinator by either or both parents by consensus; and,
- if agreement cannot be reached on that dispute, resolve the issue by way of making a determination that will be binding on the parents subject to their rights of appeal as set out in their Parenting Coordination Agreement. (“the Arbitration role”).

8.04 Where the Parenting Coordinator makes a determination, it is effective on the date that the Award is made unless a later date is specified in the Award. 8.05 The Parenting Coordinator must apply all existing court orders, agreements, minutes of settlement or arbitration awards that pre-date or post-date the Parenting Coordinator’s appointment, but the Parenting Coordinator may amend such agreements or orders as per the jurisdiction of the Parenting Coordinator that is set out in the Parenting Coordination agreement.

## **STANDARD IX – SERVICES PERFORMED BY THE PARENTING COORDINATOR**

9.01 The scope of the Parenting Coordinator’s role may include but is not limited to the following<sup>9</sup>:

- assist with the implementation, interpretation, maintenance and monitoring of relevant Minutes of Settlement, Parenting Plan, Court Orders or arbitral awards;
- settle anticipated or actual conflicts in the child(ren)’s scheduling;
- settle any difficulties related to the children’s transitions between the parents or when both parents are in attendance at events or activities, including codes of conduct and transportation;
- clarify and resolve different interpretations or ambiguities in the Parenting Plan or terms related to custody/access order, Minutes of Settlement or Separation Agreement and develop any new provisions to address situations that were not

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<sup>9</sup> In accordance with the individual Parenting Coordination Agreement.

anticipated when the Parenting Plan (or order, Minutes, arbitral award or Separation Agreement) was developed;

- monitor the child(ren)'s adjustment to the Parenting Plan;
- facilitate the child(ren)'s relationship with each parent;
- assist the parents to communicate more effectively where possible and, where not possible, assist to disengage the parents;
- assist the parents with the exchange of information about the child(ren) (i.e., health, welfare, education, religion, routines, day-to-day matters, etc.) where necessary;
- make binding interim or final decisions relating to "major" decisions (i.e., education, health, religion)
- make interim or final binding decisions about temporary changes to the usual or holiday parenting time schedule, to accommodate special events and circumstances for the child(ren) or the parents;
- resolve conflicts concerning the child(ren)'s participation in recreation, enrichment or extra-curricular activities, lessons, and programs, where not addressed by the Court Order or existing Parenting Plan.
- settle disputes and develop provisions about the movement of the child(ren)'s clothing, equipment, toys and personal possessions between households;
- settle disputes and develop provisions about matters relating to the children's travel with one parent (i.e., protocol relating to passport exchange, itinerary, notarized permission letter, telephone calls with the non-resident parent, etc.);
- resolve conflicts concerning day to day health care, day to day education matters, passports, risky activities, and events that are not otherwise allocated for in the Minutes/Parenting Plan; and
- resolve conflicts about any other parenting function, issue or decision, not otherwise noted, as delegated by the courts or by mutual parental consent.
- Such other similar matters.

9.02 The following specific issues are excluded from the scope of the Parenting Coordinator's authority:

- a. permanent or substantial changes in quantum of parenting time as outlined in the parenting plan,
- b. a change in the geographic residence of the child(ren), beyond the parameters set out in the parenting plan;
- c. a change in final decision-making authority (ie., legal custody).

## STANDARD X - COMMUNICATIONS

10.01 Parenting coordination is a dispute resolution process designed to reduce conflict and help settle disputes efficiently. A Parenting Coordinator must, at all times, communicate in a manner which preserves the integrity of the parenting coordination process and considers the safety of all participants.

10.02 In communicating with the participants in the Parenting Coordination process, a Parenting Coordinator,

- a. shall communicate in an objective, balanced manner that takes into consideration any possibility of a perception of bias,
- b. shall appropriately communicate agreements, directives and determinations to all parties, preferably at the same time when possible,
- c. may initiate or receive oral or written communications, with appropriate consent forms, with the parties, their lawyers, any legal representative of the children, and all other parties relevant to understanding the issues;
- d. may engage in individual, confidential communications with each of the parties and/or their lawyers;
- e. should take notes regarding communications with participants in the parenting coordination process; and,
- f. shall document in writing all agreements made by the parties or determinations made by the Parenting Coordinator within the Parenting Coordination process.

## STANDARD XI - PRACTICE

11.01 A Parenting Coordinator must maintain reasonable practice records in a manner that is professional, comprehensive and inclusive of information and documents that relate to the parenting coordination process and that support the directives and determinations made by the Parenting Coordinator.

11.02 A Parenting Coordinator must not engage in marketing activities that contain false or misleading information. A Parenting Coordinator must ensure that all marketing material used in relation to his or her practice regarding,

- a. his or her qualifications;
- b. the services to be rendered; and,
- c. the parenting coordination process
- d. are accurate, verifiable and not misleading. A Parenting Coordinator must not make claims of achieving specific outcomes, or creating an unjustified expectation about the parenting coordination process.

11.03 A Parenting Coordinator must:

- a. respond promptly to any communication from FDRIO's Complaints Committee, and,
- b. otherwise comply with FDRIO's policies, practice and procedure requirements, including the FDRIO Standards of Practice for FDR Professionals.

## **STANDARD XII - BILLING**

12.01 Prior to entering into a Parenting Coordination agreement with the parties, a Parenting Coordinator must explain to them the basis of all fees, disbursements, taxes, costs, retainers, deposits, payment methods and any penalties for postponement, cancellation and/or nonappearance, as well as any other financial terms applicable, all of which must be confirmed in writing in the Parenting Coordination agreement. The fees charged for parenting coordination services must be based on the actual time expended in the parenting coordination process.

12.02 The Parenting Coordinator should comply with any practice rules regarding fees. Activities for which a Parenting Coordinator may charge include, but are not limited to,

- a. interviewing parents, children and collateral sources of information;
- b. preparing for and conducting hearings;
- c. preparation of documentation, agreements, correspondence, decisions and reports;
- d. review of records and correspondence;
- e. telephone and electronic communication;
- f. meetings;

- g. relevant legal or other research
- h. travel, and,
- i. administration

12.03 A Parenting Coordinator must maintain detailed records necessary to support charges for services and expenses and should make an accounting of those charges to the parties.

12.04 A Parenting Coordinator may request a retainer and/or deposit prior to starting a case. The parties should be billed on a regular basis and notified when the retainer and/or deposit is to be replenished.

12.05 All fees and costs must be allocated as set out in the Parenting Coordination Agreement.



**APPENDIX B:**

**BC PARENTING COORDINATORS ROSTER SOCIETY'S  
GUIDELINES FOR PARENTING COORDINATION**

# BC PARENTING COORDINATORS ROSTER SOCIETY

## Guidelines for Parenting Coordination

### FOREWORD

These Guidelines for Parenting Coordination in British Columbia ("Guidelines") have been developed from the Guidelines originally created in 2005 by the interdisciplinary AFCC Task Force on Parenting Coordination and modified and adapted by the BC Parenting Coordinators Roster Society in 2011.

The mandate of the BC Parenting Coordinators Roster Society (the "Society") is to

- govern the practice of parenting coordination by roster members in the public interest in accordance with the *Family Law Act*, S.B.C. 2011, c. 25 ("*FLA*")
- set standards for competent and ethical practice
- promote excellence among practitioners
- impose any one or more of a series of escalating outcomes upon a roster member when standards are not met, including remedial work, suspension or removal from the Roster.

### GUIDELINES FOR PARENTING COORDINATION

#### OVERVIEW AND TERMS USED

Parenting coordination is a quasi-legal, mental health, consensual dispute resolution process that combines assessment, education, case management, conflict management and decision-making functions.

The objective of the parenting coordination process is to assist parents in high conflict circumstances to protect and sustain safe, healthy and meaningful parent-child relationships by

- Educating parents about children's needs and the effect of parental conflict on them;
- Implementation of parenting plans;

- Monitoring compliance with the details of the plan; and
- Resolving conflicts regarding the children and the parenting plan in a timely manner.

A Parenting Coordinator ("PC") is generally appointed by the court for those high conflict parents who have demonstrated a long-term inability or unwillingness to make parenting decisions on their own, comply with parenting agreements and orders, reduce child-related conflicts, and protect their children from the impact of that conflict.

A PC may also be appointed by agreement of the parties to make recommendations and/or determinations for the parties and further may be requested by the court to provide a written or oral report to the court. The delegation of decision-making authority is a serious issue and only qualified professionals should be appointed to the role.

The parenting coordination process is child-focused and practiced by experienced mental health or legal professionals, with specialized training and experience in conflict management, high conflict personalities, mediation and determination making.

A PC must routinely screen prospective cases for family violence and decline to accept such cases if they do not have specialized training and expertise to effectively manage cases involving violence, power imbalance, and patterns of control and coercion.

These Guidelines provide detailed guidance for PCs concerning:

- minimum qualifications;
- ethical obligations and conduct; and
- practice and procedure.

These Guidelines refer to different levels of guidance as follows:

- the term "may" in a Guideline is the lowest strength of guidance and indicates a practice that the PC should consider adopting, but from which the PC can deviate in the exercise of good professional judgment;
- the term "should" indicates that the practice described in the Guideline is highly recommended and should only be departed from in exceptional or compelling circumstances; and
- the term "must" in a Guideline denotes the highest level of direction, indicating that the described practice is mandatory.

There are eleven best practice Guidelines, including statements of underlying principles, to assist PCs in identifying how best to conduct themselves and their practices in the discharge of their appointed duties in compliance with the governing legislation, orders of the court and PC Agreement.

All practitioners should review in detail Section 1 and Division 3 of the *FLA* concerning Parenting Coordination in the resolution of family law disputes in British Columbia. Section 14 of the *FLA* provides that a person meeting the requirements set out in the Regulations to that Act may be a PC. The current Regulation can be found at pages 7 to 9 of Order in Council 837:

Link: <http://www.ag.gov.bc.ca/legislation/family-law/pdf/oic-837.pdf>

*In these Guidelines the following terms will have the following meaning:*

*“assessor” means a person appointed under s. 211 of the FLA to assess:*

- (a) the needs of a child in relation to a family law dispute;*
- (b) the views of a child in relation to a family law dispute; and*
- (c) the ability and willingness of a party to a family law dispute to satisfy the needs of a child.*

*“PC Agreement” means the most current form of generally accepted precedent for a parenting coordination agreement endorsed by the Society.*

*“parenting plan” means an agreement, order or written decision concerning parenting arrangements and contact with a child(ren).*

*“parties” means the persons named in a PC Agreement.*

Lawyer practitioners must comply with the Rules set out in Division 3 of the Law Society Rules:

Link: <http://www.lawsociety.bc.ca/page.cfm?cid=982&t=Law-Society-Rules-Part-3-Protection-of-the-Public#3-20-2>

Lawyer practitioners should review in detail the Law Society of British Columbia publication “Qualifications for Lawyers Acting as Arbitrators, Mediators, and/or Parenting Coordinators in Family Law Matters” (September 7, 2012), the recommendations of which have been adopted by the Benchers of the Law Society:

Link: [http://www.lawsociety.bc.ca/docs/publications/reports/FamilyLawTF\\_2012.pdf](http://www.lawsociety.bc.ca/docs/publications/reports/FamilyLawTF_2012.pdf)

## GUIDELINE I - QUALIFICATIONS

1.01 A PC must be qualified by education, training and experience to undertake parenting coordination with the skill and capacity required to deal appropriately and efficiently with high conflict parenting issues. Any person seeking to serve as a PC must, at a minimum,

- (a) be a member of a designated professional organization as provided in the Regulations pursuant to the *FLA* [see s. 14].

1.02 A PC must have training and experience in family mediation. The PC should endeavour to become a certified mediator with FMC or qualified for admission to the family roster of Mediate BC in accordance with the requirements of the respective professional bodies.

1.03 A PC must have specific training in the parenting coordination process and techniques, family dynamics in separation and divorce and family violence screening.

1.04 A PC should

- (a) have extensive practical experience in the profession with high conflict or litigating parents; and
- (b) participate in peer consultation and/or mentoring to receive feedback and support on cases. PC agreements should specify that such professional consultation is permitted (see Guideline V).

1.05 A PC must maintain professional competence in parenting coordination and must regularly participate in continuing educational activities promoting professional growth.

1.06 A PC must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the PC's skill or expertise.

1.07 A PC seeking to be accepted by the Society as a roster member must at a minimum:

- (a) be of character satisfactory to the Society; and
- (b) meet the requirements set out by the Membership Committee, from time to time.

## **GUIDELINE II - JURISDICTION**

2.01 Section 15(2) of the *FLA* requires that a PC may only serve by parental agreement and/or court order, which provides the authority to work with the parents outside of the adversarial process, obtain information, make recommendations and make determinations as to the matters specified in the agreement or order.

2.02 A court order or written agreement of the parents must clearly and specifically define the PC's scope of authority and responsibilities. The ability of the court to change or set aside a determination made by a PC is limited to instances in which the PC either

- (a) acted outside his or her authority; or
- (b) made an error of law or of mixed fact and law.

2.03 In addition to any court order providing for the appointment of a PC, a written PC agreement between the parties and the PC must be used to detail specific issues not contained in the court order, such as fees, retainers, services and billing practices.

2.04 The court order and/or PC agreement should specify a term of appointment for the PC, including starting and ending dates, renewal terms, and termination rights.

2.05 A PC must not provide services until the PC has received a fully signed PC agreement.

2.06 A PC should not provide services until the PC has received a copy of any filed court order appointing the PC.

## **GUIDELINE III - INFORMED CONSENT**

3.01 A PC must at the outset of the process

- (a) review with the parties the nature of the PC's role; and
- (b) be satisfied that the parties understand
  - (i) the nature of the process;
  - (ii) the extent of the authority assigned to the PC;
  - (iii) the limited nature of the confidentiality of the process;
  - (iv) the third parties with whom the PC will be authorized to consult or obtain information from; and
  - (v) their rights in seeking review by the court.

## **GUIDELINE IV - IMPARTIALITY**

4.01 A PC must maintain impartiality in the process of parenting coordination. In this Guideline, "impartiality"

- (a) means freedom from favouritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual; and
- (b) does not mean that a PC must be neutral regarding particular conduct or the outcome of a particular determination.

4.02 A PC must withdraw if the PC determines that he or she cannot act in an impartial or objective manner.

4.03 A PC must neither give nor accept a gift, favour, loan or other item of value from any party having an interest in the parenting coordination process. During the term of the PC's appointment, a PC must not solicit or otherwise attempt to procure future benefits, services or positions from which the PC may profit.

4.04 A PC must not coerce or improperly influence any party to make a decision.

4.05 A PC must not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting coordination process.

4.06 A PC must not accept any engagement, provide any service, or perform any act outside the role of PC that would compromise the PC's integrity or impartiality in the parenting coordination process.

## **GUIDELINE V - CONFIDENTIALITY & TRANSPARENCY**

5.01 Parenting coordination is not a confidential process for communications among

- (a) the parties, their children and the PC;
- (b) the PC and other relevant parties to the parenting coordination process; or
- (c) the PC and the court.

5.02 Subject to

- (a) the legal limitations on confidentiality;
- (b) permitted professional purposes; and

- (c) the express provisions of the authorizing court order or agreement,
- (d) a PC must maintain confidentiality and information obtained must not be shared outside of the parenting coordination process.

5.03 A PC must inform the parties of the limitations on confidentiality as provided in this Guideline and, in particular, that:

- (a) suspected child abuse or neglect must be reported to child protective services in accordance with s. 14 of the *Child, Family and Community Services Act*, R.S.B.C. 1996, c. 46; and
- (b) the PC must report to law enforcement or other authorities if the PC has reason to believe that any family member appears to pose a serious risk of harm to self or others.

5.04 The PC must use a methodology that is fair and transparent to both parties and the court. Each party must be given an opportunity to be heard in the process. Notice must be given as to what is expected from the participation of the parties and the consequences of non- participation. If one party refuses to cooperate after notice, the PC may continue to resolve the dispute or withdraw from the process in accordance with the governing court order and/or PC Agreement.

5.05 In the event that a PC communicates with a third party in the course of the parenting coordination process, the PC should notify any such third party that information obtained from them is not confidential and that it may be used in making decisions or writing reports or recommendations to or testifying in court.

#### **GUIDELINE VI - CONFLICTS OF INTEREST**

6.01 A PC must not serve or continue to serve in a matter in which there is a conflict of interest, including situations in which the impartiality of the PC is compromised or appears to be compromised, except as specifically provided in this Guideline.

6.02 During the term of a parenting coordination appointment, a PC must not create a conflict of interest by providing any services to interested parties that are not directly related to the parenting coordination process.

6.03 A PC must disclose potential conflicts of interest as soon as the PC becomes aware of any interest or relationship giving rise to the potential conflict.

6.04 After appropriate disclosure, the PC may serve, or continue to serve, with the written agreement of all parties. However, if the conflict of interest clearly impairs a



PC's impartiality, the PC must withdraw regardless of the express agreement of the parties.

6.05 A PC may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, benefits or similar remuneration must be received or given by a PC for referrals.

### **GUIDELINE VII - SEQUENTIAL OR MULTIPLE ROLES**

7.01 A PC must not serve in sequential or multiple roles in a case that creates a professional conflict, including

- (a) a party's lawyer, a child's lawyer or a child advocate must not be appointed as a PC in the same case;
- (b) a PC must not be appointed as the lawyer for one party or a child either during or after the term of the PC's appointment with the family;
- (c) a PC must not be appointed as an assessor either during or after the term of the PC's appointment with the family; and
- (d) a PC must not become a therapist, assessor, consultant, coach, or other mental health care provider to a party or a child, either during or after the term of the PC's appointment with the family.

7.02 A mediator or assessor should exercise caution about accepting an appointment as PC in the same case, even with the written consent of the parties, because of the differences in the role and potential impact of the role change.

7.03 A PC should attempt to facilitate resolution of issues by consensual agreement of the parties, although the PC is not acting in a formal mediation role. Dispute resolution efforts, which may include implementation of therapeutic, mediation, educational and negotiation skills, do not disqualify a PC from deciding an issue that remains unresolved after efforts of consensus building within the limit of authority provided in the applicable court order, the PC Agreement or FLA.

## **GUIDELINE VIII - ROLE & FUNCTIONS OF THE PARENTING COORDINATOR**

8.01 A PC must assist the parties in promoting the best interests of the children and reducing conflict consistent with the role and functions of a PC as set out in these Guidelines.

8.02 Assessment Function: a PC

- (a) must be alert to any reasonable suspicion of family violence directed at anyone, particularly children. The PC must act in accordance with any protection order in place and take necessary measures to ensure the safety of all participants in the parenting coordination process, including the PC;
- (b) must be alert to any reasonable suspicion of substance abuse by a parent or child and to any psychological or psychiatric impairment of a parent or child;
- (c) should have initial individual and/or joint interviews with the parties and, in the professional judgment of the PC, the children if the PC has the appropriate training and skills for child interviewing;
- (d) may interview individuals who provide services to the children, as needed to assess the children's needs and wishes;
- (e) may communicate by way of joint or separate in-person meetings, telephone conferences, e-mail, or fax;
- (f) should determine whether separate or joint sessions are most appropriate at any particular time, having regard to the safety and comfort of participants if the case involves family violence and/or patterns of coercive control;
- (g) must have the authority to meet and/or consult with all relevant persons including, but not limited to,
  - (i) the lawyers for all parties;
  - (ii) any person acting in a parental role for the children;
  - (iii) the children;
  - (iv) the custody evaluator;
  - (v) school officials;
  - (vi) physical and mental health care providers;
  - (vii) extended and/or blended family members; and
  - (viii) anyone else the PC determines to have a significant role in contributing to or resolving the conflict;

- (h) must have access to and review all documentary information necessary to assess the inter-personal dynamics and issues raised by the parties and their children, including
  - (i) all parenting capacity reports;
  - (ii) relevant court documents and orders;
  - (iii) records from related proceedings, such as assault, family violence or child protection cases;
  - (iv) relevant health, psychological testing, counselling and educational records; and
  - (v) any other relevant records.

8.03 Conflict Management Function: a PC should

- (a) encourage and assist parties to resolve disagreements and minimize conflict;
- (b) employ dispute resolution skills, including negotiation, mediation and, when necessary, arbitration, to assist in resolving disputes;
- (c) monitor all forms of exchanges among family members to assist in improving communication and reducing conflict, and suggest more productive forms of communication that may limit conflict;
- (d) in cases of family violence or patterns of coercive control, employ techniques to minimize or eliminate the risk of opportunity for further violence and coercion.

8.04 Dispute Resolution Function: a PC

- (a) should facilitate agreement between the parties on all disputes regarding their children in a timely manner, having regard to the nature and urgency (if any) of the dispute;
- (b) should, in cases of family violence or patterns of control and coercion, hold individual sessions with the parties to convey the information required by Guidelines III and V;
- (c) must only address disputes that are within the authority granted to the PC by the authorizing court order, PC Agreement or FLA;
- (d) should make recommendations to the parents concerning dispute resolution;

- (e) must be knowledgeable about the governing law and procedure for determination-making by the PC.; and
- (f) must only make determinations as specifically directed in the authorizing court order, PC Agreement or FLA when the parents are unable to agree.

8.05 Determination-making Function: a PC

- (a) must be empowered to make determinations to the extent permitted by the FLA, the PC Agreement or appointing court order; and
- (b) may be requested by the court to make reports or recommendations to the court.

8.06 The governing court order and/or PC agreement must provide specific details of the determination-making authority of the PC.

8.07 A PC must not

- (a) make determinations outside the scope of the PC's authority;
- (b) make a determination that would change legal guardianship from one parent to the other or substantially change the parenting plan, except on a temporary basis to protect a child when a parent is impaired or incapable of fulfilling his or her court-ordered parenting functions pending further assessment and a decision by the court; or
- (c) offer legal advice.

8.08 Coordination / Case Management Function: a PC should

- (a) maintain a current list of child protection, social services, and allied professionals for referrals or consultation; and
- (b) consult with the relevant professionals and care providers (e.g. mental health, health care, social services, education, legal) involved with the family, as well as with extended family, step-parents and significant others.

8.09 Educational Function: a PC should inform the parties about

- (a) child development;

- (b) parenting skills;
- (c) the impact of conflict on children;
- (d) communication skills;
- (e) dispute resolution skills; and
- (f) when appropriate, divorce research.

The PC may coach the parties about the foregoing issues or make referrals to allied professionals or services.

8.10 PC determinations must be delivered to the parties in a timely manner by email, fax, telephone or in person. In the event that a determination is provided orally, a written version, including reasons, must follow in a timely manner.

### **GUIDELINE IX - COMMUNICATIONS**

9.01 Parenting coordination is a non-adversarial process designed to reduce conflict and help settle disputes efficiently. A PC will communicate with all parties, children, counsel, colleagues and the court in a manner which preserves the integrity of the parenting coordination process and considers the safety of all participants.

9.02 In communicating with the participants in the parenting coordination process, a PC

- (a) should communicate in an objective, balanced manner that takes into consideration any possibility of a perception of bias;
- (b) should communicate agreements, recommendations and determinations to all parties at the same time when possible;
- (c) may initiate or receive oral or written communications with the parties, their lawyers, any legal representative of the children, and all other parties relevant to understanding the issues;
- (d) may engage in individual communications with each of the parties and/or their lawyers;
- (e) should keep notes regarding all communications with all participants in the parenting coordination process;

- (f) must document in writing all agreements made by the parties or determinations made by the PC;
- (g) must follow the court's directions regarding provision to the court of a copy of any determination made by the PC;
- (h) must follow the court's directions regarding provision to the court of any report or recommendation made by the PC;
- (i) must not communicate with the court without the knowledge of all parties to the PC Agreement.

### **GUIDELINE X - PRACTICE**

9.01 A PC must maintain reasonable practice records in a manner that is professional, comprehensive and inclusive of information and documents that relate to the parenting coordination process and that support the recommendations and determinations made by the PC.

9.02 A PC must not engage in marketing activities that contain false or misleading information. A PC must ensure that all marketing material used in relation to his or her practice regarding

- (a) his or her qualifications;
- (b) the services to be rendered; and
- (c) the parenting coordination process

are accurate, verifiable and not misleading. A PC must not make claims of achieving specific outcomes, implying favouritism or creating an unjustified expectation about the parenting coordination process.

9.03 A PC who is a member of the roster of the Society must

- (a) respond promptly and completely to any communication from the Society;
- (b) cooperate with the Society in addressing concerns or complaints from the public; and
- (c) otherwise comply with the Society's policies, practice and procedure requirements.

## **GUIDELINE XI - BILLING**

11.01 Prior to the commencement of a parenting coordination appointment, a PC must explain to the parties, the basis of all fees, disbursements, taxes, costs, retainers, deposits, payment methods and any penalties for postponement, cancellation and/or nonappearance, as well as any other financial terms applicable, all of which must be confirmed in writing. The fees charged for parenting coordination services must be based on the actual time expended by the PC.

11.02 The PC should comply with any practice rules regarding fees. Activities for which a PC may charge include, but are not limited to

- (a) time spent interviewing parents, children and collateral sources of information;
- (b) preparation of agreements; correspondence, decisions and reports;
- (c) review of records and correspondence;
- (d) telephone and electronic communication;
- (e) meetings; and
- (f) travel.

11.03 A PC must maintain records necessary to support charges for services and expenses and should make a detailed accounting of those charges to the parties.

11.04 A PC may request a retainer and/or deposit prior to starting a case. The parties should be billed on a regular basis and notified when the retainer and/or deposit is to be replenished.

11.05 All fees and costs must be appropriately divided between the parties as directed by the court order of appointment or as agreed in the PC Agreement with the parties.