

The Role of the Mental Health Professional in Collaborative Divorce

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Two divorce attorneys walk into a bar. They're given a set of facts relating to the dissolution of a marriage, without being assigned representation to either party, and they reach a mutually agreed upon settlement in less than an hour.

If only our jobs were that simple. Instead, a couple's emotional and psychological vulnerabilities generally control the settlement negotiation process, in conjunction with the attorneys' egos, making it much less efficient than it otherwise could be.

Recognizing that attorneys are often argumentative and positional by nature, having to advocate for their clients in an adversarial role, the inclusion of a neutral mental health professional (MHP) as part of a Collaborative Divorce team promotes an atmosphere where the clients are encouraged to communicate in a more positive and respectful manner, both during and after the trauma of their separation and divorce. MHPs are trained to analyze the clients' communication patterns and to identify better ways for them to interact and to come to joint decisions. They can instruct clients on effective, non-attacking, non-defensive modes of communication that can improve the clients' relationship, thereby reducing the overall adversarial tone of the process and trauma for clients and their families.

MHPs play an invaluable role in the Collaborative Divorce process to attorneys and clients alike. For attorneys, the MHP serves as a critical resource by helping them understand their clients' emotional triggers, fears, and concerns, and can provide crucial assistance in settlement negotiations by identifying emotional and psychological roadblocks to settlement—explaining how the clients' feelings are inhibiting progress and suggesting a framework for more fruitful outcomes. MHPs can further assist attorneys in understanding how their own reactions and behaviors may be causing anger or annoyance to one or both clients and can recommend that the attorneys approach problems in different ways that will be better received by the clients.

For clients, the divorce decision usually takes place over a series of years during which one or both of the clients have developed deeply entrenched feelings of hurt and animosity that upset the roots of each one's normalcy. The presence of an MHP on the Collaborative Divorce team can shift the burden of identifying and handling the resulting difficult client

behaviors and can diffuse the intensity of the clients' emotional and psychological obstructions when compared to attorneys working with clients in isolation. Thus, the ability of an attorney to acknowledge and navigate the intensity of their client's emotional trauma is not as effective as the skillfulness of a MHP, who is specifically trained to hear and work with traumatic feelings.

To elaborate, there are a host of emotions and resulting behaviors that may influence a client's approach to the divorce process—including denial, distrust, distance, fear, anxiety, guilt, love, anger, depression, and grief. Some behaviors may be longstanding and form the basis for the desire for separation, while others only may have resulted from the other client's desire to leave the marriage. Very often, both parties will feel victimized by these behaviors, thus creating additional anxiety, resentment, impatience, sadness, and dependency. While MHPs do not treat or diagnose clients in the Collaborative Divorce process, they are, nonetheless, able to assess the mental health capacity and symptoms of the clients and how their behaviors have been pathological to the couple; MHPs can share this information with the attorneys in order to increase the team's understanding of the relationship dynamic. This sharing lifts the burden from the attorneys, working in isolation with their clients, to the team as a whole, which can be tremendously helpful to the attorneys.

Importantly, the MHP can help guide the Collaborative Divorce team in assessing whether couples who have struggled with intimate partner violence, coercive control, or substance abuse behaviors will be able to take part in the collaborative process by evaluating the severity of the conduct and the difference between pathological issues and workable behaviors. The MHP not only brings expertise in identifying these sorts of problematic behaviors but also can aid the Collaborative Divorce team by offering suggestions on how to address behaviors that may interfere with a fair and durable settlement.

Another function of the MHP is to work separately with the clients to develop a "shared narrative" for how and when their children will be informed about their separation and divorce, and to create a comprehensive Parenting Plan. Unlike attorneys, MHPs can provide expertise in child development and the psychological impact of divorce on the family. They are able to help the clients establish parameters of their co-parenting relationship going forward, recognizing that a positive vision of the future requires moving past all of the hurt, fear, and angry feelings that result from the divorce process.

An MHP may additionally be included on a Collaborative Divorce team in a "Child Specialist" capacity, which brings the voice and needs of a

child into the process. A Child Specialist does not provide therapy for children, but will meet with them independently to allow them an opportunity to talk about the family's changes and their feelings with a neutral adult. Child Specialists will then give the clients feedback on their children's experiences, which helps the parents understand what the children are thinking and feeling and can improve their ability to talk to the children about difficult issues, ultimately paving the way for less conflict. Consistent research shows that emotionally healthy psychological outcomes for children are directly correlated to less conflict between the parents—whether in an intact family or a divorced family.

The Child Specialist can further educate and guide children to speak up and to share their feelings with their parents, while also preparing parents on how to identify and understand what their children may be experiencing as a result of their divorce. Older children, in particular, will often find difficulty in communicating with their parents about the divorce and will repress their feelings or will lash out at one or both parents; in these cases, the Child Specialist can help them cope with their feelings and can also act as an intermediary with the parents.

Although adult children do not work with a Child Specialist in the Collaborative Process, they may still have a very difficult time reconciling what is happening with their family, particularly if there are minor siblings. If adult children do not have a chance to express their feelings and concerns and to be part of the process, there are often pathological behaviors that can develop in their own relationships. Thus, no matter what the age of the children of the divorcing clients, it is imperative that the children have an opportunity to provide input, and an MHP can provide parents with guidance and support in navigating these difficult discussions.

The divorce process is one of the most difficult experiences one can go through in life; it is often a slow and painful death of a family. One of the most compelling advantages of the Collaborative Divorce process is the focus on changing the perception that the divorce must constitute an end to the family and, instead, promoting the understanding that it can be viewed as establishing a new family relationship that can be healthier for all.