



# Include Allied Professionals in the Collaborative Process

By [Michael P. Sampson](#) of [Sampson Collaborative Law](#)

ABA Just Resolutions, February 23, 2023

Experts routinely help decision makers – clients, lawyers advising them, judges and arbitrators deciding their cases, and juries figuring out issues – understand complex issues. Blurry pictures come into sharp focus. Gaps in understanding get filled. Likewise, to clients who choose the [Collaborative Law Process](#) to resolve their issues, Collaborative Allied Professionals (“Allied Professionals”) provide quality information and helpful knowledge.

They can keep the decision makers – the clients – engaged in and comfortable with the Collaborative Process and instill confidence in the clients’ settlement decisions.[1](#)

# Allied Professionals Add Value

Allied Professionals are roses<sup>2</sup> who sometimes go by other names, such as “affiliated professionals,” “adjunct professionals,” “experts,” “specialists,” or “collaborative consultants.”

But to collaborating clients and their Collaborative Practice teams, Allied Professionals by any other name can provide value that smells sweet.

The Collaborative team members whom [the International Academy of Collaborative Professionals \(IACP\)](#) includes in its definition of “Collaborative Practice” are not only the team’s “mental health and financial professionals,” but are also “other experts as needed.”

The IACP guides Collaborative Professionals about including other professionals with special expertise to address client needs, interests, and goals:

In fully addressing client needs, interests and goals, the Collaborative Professional must be willing to turn to other professionals, such as lawyers with special expertise, mental health professionals, medical professionals, financial professionals, vocational specialists, specialists in the areas of physical disability, substance abuse, domestic violence, and others.[3](#)

# Allied Professionals Know Things Collaborative Lawyers May Not Know

Consistent with IACP's ethical standards, including Allied Professionals on the Collaborative team helps the core professional Collaborative team broaden and leverage its members' respective expertise and better serve clients' goals.[4](#)

“Allied” means “joined or united in a close relationship.”[5](#)

Lawyers need not be “lone rangers.”[6](#) Instead, when Collaborative lawyers and clients ask Allied Professionals to unite with Collaborative teams, lawyers can function in a system.[7](#)

The focus of the team's united effort is getting necessary information, understanding it, and solving problems to achieve the clients' goals.

# How Can Including Allied Professionals in the Collaborative Process Help Clients?

Clients get stuck on issues, but Allied Professionals can help them get unstuck.<sup>8</sup> They can provide information the participants lack, but need, before they can settle their dispute.<sup>9</sup> Or, as Collaborative Professionals engaged in no positional fight – thus having no dog in the fight – Allied Professionals may credibly give clients their opinions, help them engage in and stick with the Collaborative Process, and reassure them about technical or complex decisions.

## Ways Collaborative Allied Professional Can Serve

The table below isn't exhaustive, but it gives several examples of (i) Allied Professionals, (ii) Collaborative clients who might consider engaging them, and (iii) corresponding

areas the Allied Professionals might explore as they lend their expertise in the Collaborative Process. As varied as clients' circumstances and needs may be, there are Allied Professionals who might serve them.

### Allied Professionals - Types and Services

| Type of Allied Professional  | Example Collaborative Clients   | Areas of Service to Explore   |
|--|---|---|
| <b>Collaborative Divorce Coaches</b>                                       | Parent is stressed, distrustful, angry, and feeling unable to communicate without becoming defensive.   | Improving communications between the parents. Helping the coached parent manage stress and set goals. Giving insight to the children's needs. Helping the spouse come to terms with the divorce, including budgeting, finding another home, gaining confidence. |
| <b>Child Experts, Child Specialists, Education Lawyer</b>                  | Child caught in the middle, with conflicting loyalty binds to parents. Special needs child requiring physical assistance as the child dependent enters teenage and adult years. Gifted athlete or musician. | Informing the parents about the child's best interests. Finding safe, quality, affordable childcare for child with special needs.   |
| <b>Parenting Coordinators</b>  | High-conflict couple with children at different development stages and varying relationships with parents.  | Conducting parenting coordination to work on communication skills.  |
| <b>Mental Health Professionals, Social Workers, Counselors, Therapists</b> | Parent in and out of sobriety. Parent with bipolar disorder. Spouse suffering from severe anxiety and depression.   | Providing therapy for addiction issues. Offering tools for managing stress, anxiety, and depression. Conducting a mental health evaluation of a client.   |
| <b>Domestic and Child Abuse Experts</b>                                    | One parent abusive towards the other parent or towards the children.  | Developing ground rules to safeguard the participants and process. Providing therapy and protocols for nonabusive communication.  |
| <b>Financial Advisors</b>  | Spouse not sophisticated in finances must manage, invest, live on assets and income after the divorce. Spouses in closely-held family business need a business plan for the business post-divorce.          | Advising a party about investment options, budgeting, and financial planning.   |
| <b>CPAs, Tax Experts</b>   | Spouses considering impact of selling or transferring assets, such as foreign investment property.  | Advising a party about investment options, budgeting, and financial planning.   |

| Type of Allied Professional                           | Example Collaborative Clients  | Areas of Service to Explore  |
|---|--|--|
| <b>Estate Planning Attorneys, Elder Law Attorneys</b> | Spouse with beginning Alzheimer's Disease, dementia, or deteriorating physical capacity. Beneficiary of irrevocable trust needing access to trust income or principal. | Developing a Life Care Plan. Conducting a neurologic evaluation. Educating and helping explore distributions from or termination or modification of a trust. Helping with post-divorce estate planning.  |
| <b>Special Needs Experts</b>                          | Special needs child requiring physical assistance as the child dependent enters teenage and adult years.   | Transition of exceptional students with disabilities from minor children to adults<br>Individual Education Plans (IEPs) and informed consent requirements to allow their parents to continue participating in educational decisions To promote the child's educational progress and developing essential skills to pursue higher education goals or employment, collaboration between public school personnel and private instructional personnel, including: <ul style="list-style-type: none"> <li>• Speech-language pathologists</li> <li>• Occupational therapists</li> <li>• Physical therapists</li> <li>• Psychologists</li> <li>• Clinical social workers</li> <li>• Behavior analyst service providers</li> </ul> Special Needs Trusts Estate planning Guardianship law Family dynamics between siblings and special needs children Federal and state benefits, resources, and support systems available for children with special needs. |
| <b>Realtors, Divorce Lending Professionals</b>        | One spouse wants to keep the home, one wants to sell it.   | Conducting a comparative market analysis. Developing options on timing of a sale of the home. Exploring alternative housing available and projecting realistic costs.  |
| <b>Appraisers, Valuation Analysts</b>                 | One spouse is an owner in a closely-held medical practice before the marriage and grew the practice during the marriage.   | Calculating the range of marital value and personal goodwill value of a professional practice, when the business will be kept.   |
| <b>Retirement Valuation Experts, Actuaries</b>        | Pension started before marriage has grown during the marriage and needs to be divided.   | Valuing the marital part of retirement plan before entry of Qualified Domestic Relations Order.  |

| Type of Allied Professional         | Example Collaborative Clients  | Areas of Service to Explore  |
|-------------------------------------|--|--|
| <b>Stock Options Experts</b>        | Before and during the marriage, a tech executive earned stock options with differing grant and strike prices and vesting schedules.                          | Determining a coverture fraction and marital part of vested and unvested stock options and working on options corresponding with future vesting, cash flow, and tax consequences.                                      |
| <b>Vocational Experts</b>           | Spouse graduated with college degree but has been a stay-at-home parent out of the work force for the last 10 years.   | Conducting a vocational evaluation and survey of jobs in a geographic area.  |
| <b>Insurance Experts</b>            | Monied spouse has health issues preventing access to affordable life insurance.  | Exploring insurance options for securing financial commitments.  |
| <b>Bankruptcy Attorney</b>          | Closely-held business and its divorcing owners have debts exceed assets.   | Exploring options for reorganization or liquidating the business.  |
| <b>Intellectual Property Expert</b> | Songwriter/performer/ publisher/artist has a catalogue of royalty-generating assets acquired before the marriage, during the marriage, and since separation. | Providing an opinion about the valuation of intellectual property or art.  |
| <b>Immigration Lawyers</b>          | Party not yet a permanent resident in the US has concerns about how a divorce may affect efforts to immigrate.   | Evaluating risks, issues, and practical steps to achieve the client's immigration goals.   |
| <b>Religious Experts</b>            | One or both clients have strong religious rules or views to consider.  | Consulting muftis for guidance under Islamic law. Obtaining a get (or gett) under Jewish law. Obtaining an annulment from the Catholic church. Working with elders to obtain approval of divorce of Jehovah's Witness. |

Sampson Collaborative Law - Example Allied Professionals

# Three models of Collaborative Practice

How does a Collaborative Team include skilled Allied Professionals like those mentioned above? There are

variations and creative permutations, but three models of Collaborative Practice have emerged:[13](#)

- Lawyer-only Model – two clients, two collaborative lawyers.
- Team Model – two clients, two collaborative lawyers, two divorce coaches, one neutral child specialist who is typically a mental health professional, one neutral financial specialist.
- Referral or Hybrid Model – two clients, two collaborative lawyers. The clients hire expert professionals when necessary. They may share one neutral or may each hire a different expert.

Allied Professionals may help clients and lawyers in the Team Model or Referral (Hybrid) Model. In either model, the Collaborative team determines which Allied Professionals to invite, their role as joint neutral experts or consulting-only experts, and how they will participate.

## Joint Neutral Experts or Consulting-Only Experts?

### Joint Neutral Experts

In family or civil Collaborative dispute resolution, parties may discuss with their Collaborative attorneys and, in a Team Model, with the neutral mental health professional(s) and neutral financial expert, the value of hiring other joint neutral

experts. Allied Professionals who serve as joint neutrals [save money](#) adverse parties would spend on nonobjective experts hired to advocate positions.[14](#)

## Examples of Joint Neutral Experts

Examples include business and real estate appraisers, accountants, coaches or mental health professionals, who can help the clients understand and work through complex issues.[15](#) Neutral, joint experts “provide both parties neutral and unbiased information, research, opinions, or inferences on a subject relevant to the dispute.”[16](#)

The participating clients typically sign separate engagement letters with the joint neutral Allied Professional specifying services, expectations about inclusion in the Collaborative Process, commitments to confidentiality, and billing arrangements.

Some states require collaborating family law parties to include in their Collaborative Participation Agreements provisions for jointly engaging professionals, experts, or advisors serving in a neutral capacity.[17](#)

Local Collaborative Practice Groups may have suggested templates for Collaborative Participation Agreements that include provisions about Allied Professionals.[18](#)

# Consulting-Only Allied Professionals

Consulting-only experts serve not as joint neutrals, but as one client's advisor. Still, consultants must respect the Collaborative Process and clients' commitments to avoid arguing, posturing, and taking inflexible positions. Examples of consulting-only Allied Professionals in the family law context are collaborative coaches, financial planners, investment advisors, insurance agents, and therapists. Consulting-only Allied Professionals do not know of the dispute except for knowledge they acquire through the consultation with a client or in the Collaborative Process. Joint neutral Collaborative team members typically don't review the work product, opinions, or mental impressions of consulting-only Allied Professionals.[19](#)

With the Collaborative team's permission, consulting-only Allied Professionals may attend team meetings. Instead, or in addition, they may meet with one client between meetings to help guide the client through the process, often with no assurance the client will be a paying client after the process ends.[20](#)

# Work by Consulting-Only Experts After the Collaborative Matter Concludes

Unlike disqualification restrictions to which joint experts agree, the team understands consulting-only experts may handle client work after the Collaborative Process ends. Still, they can't breach confidentiality of privileged Collaborative communications, nor can they testify in adverse proceedings between the Collaborative participants about the same subjects of the Collaborative matter.

But, before meeting with individual consultants, clients must advise each other and their Collaborative team of such meetings, identify the individual consultant, say what the purpose for the individual consultant is, and instruct the consultant to abide by the Collaborative Process. An exception is clients may consult with mental health or health care professionals for their own therapy, diagnosis, or treatment without revealing such consultations to the other client or the Collaborative team.

Sometimes an attorney with specialized experience will serve as an expert in an area in which neither client's Collaborative attorney has enough expertise. Examples include immigration attorneys, bankruptcy attorneys, special needs trust attorneys, estate planning attorneys, and corporate attorneys. Such adjunct Collaborative

attorneys are ordinarily bound by the disqualification provisions of the Collaborative Participation Agreement.<sup>21</sup> These adjunct Collaborative attorneys may be joint neutral Allied Professionals or consulting-only Allied Professionals.

# Confidentiality of the Collaborative Process and Communications

The Collaborative Process is confidential. Collaborative Professionals and clients should understand how transparency in the Collaborative Process, confidentiality in the Collaborative Process, and privilege of “collaborative law communications” will apply to Allied Professionals.<sup>22</sup>

The [Uniform Collaborative Law Act](#) defines and protects confidential collaborative law communications.<sup>23</sup> Allied Professionals – whether joint neutral experts or consulting-only experts – must honor and protect these confidential communications. Whether joint neutrals or consulting-only, Allied Professionals must acknowledge in writing the confidentiality of the Collaborative Process and agree to be bound by confidentiality obligations in the Collaborative Participation Agreement.

# Be Flexible: Consider Including Allied Professionals on Collaborative Teams

Including educated and experienced Allied Professionals in the [Collaborative Process](#) for clients expands, strengthens, and deepens our ability to serve them. When we flexibly tailor teams with varied professional skills to fit clients' needs, we help clients resolve issues in a more informed, powerful way.

---

©2023. Published in Just Resolutions, February 23, 2023 – Collaborative Law Committee, [Section of Dispute Resolution](#) of the [American Bar Association](#). Reproduced with permission. All rights reserved. This information or any portion thereof may not be copied or disseminated in any form or by any means or stored in an electronic database or retrieval system without the express written consent of the American Bar Association or the copyright holder.

## References

1. Regarding professionals other than the clients and collaborative attorneys, Florida Supreme Court [Approved Florida Family Law Rules of Procedure Form 12.985\(b\)\(2\)](#) (Collaborative Participation Agreement), Section III.C provides: "[T]here may be a role for one or more professionals who will not be full participants in the process, an individual consultant, such as an appraiser, business valuation specialist or other expert who may be neutral or may be engaged to assist only one of the Clients." Available at: [https://www.flcourts.gov/content/download/691100/file\\_pdf/985b2-10-20.pdf?inLanguage=eng-US&version=6](https://www.flcourts.gov/content/download/691100/file_pdf/985b2-10-20.pdf?inLanguage=eng-US&version=6).
2. William Shakespeare, Romeo and Juliet, Act II, Scene II. "A rose by any other name would smell as sweet." Available at: [https://en.wikipedia.org/wiki/A\\_rose\\_by\\_any\\_other\\_name\\_would\\_smell\\_as\\_sweet](https://en.wikipedia.org/wiki/A_rose_by_any_other_name_would_smell_as_sweet)
3. International Academy of Collaborative Professionals, Minimum Ethical Standards for Collaborative Professionals, Standard 1.2 D. (Competence) states, "Collaborative Professionals will respect the expertise, skill and experience of other members of the professional team. Collaborative Professionals will not provide services for which they are not qualified by education, training or experience. Collaborative Professionals will be mindful of the clients' individual circumstances and the overall circumstances of the

matter that may require others to be on the Collaborative Professional team or be involved as consultants.

4. Christen C. Ritchey, Using an Allied Professional in a Collaborative Matter, Choose Collaborative – South Palm Beach County Collaborative Law Group blog (October 7, 2020), available at: <https://choosecollaborative.com/using-an-allied-professional-in-a-collaborative-matter>.  
The article discusses successful use of a corporate attorney as a neutral joint Allied Professional who prepared corporate documents to protect a divorcing couple, their closely-held family business, and their children's interests.
5. The American Heritage Dictionary of the English Language, Fifth Edition, HarperCollins Publishers. Available at <https://www.ahdictionary.com/word/search.html?q=allied&submit.x=0&submit.y=0>.
6. Pauline H. Tesler, Collaborative Family Law, the New Lawyer, and Deep Resolution of Divorce-Related Conflicts, 2008 J. Disp. Resol. 83, 116 (2008) Available at <https://scholarship.law.missouri.edu/jdr/vol2008/iss1/7>.
7. Id.
8. [Florida Academy of Collaborative Professionals](#), The Value of Allied Professionals in the Collaborative Process, webinar presented on January 15, 2021, available on YouTube at <https://sampsoncollaborativelaw.com/include-allied-professionals-in-the-collaborative-process>.
9. Sherrie R. Abney, The Evolution of Civil Collaborative Law, 15 Tex. Wesleyan L. Rev. 495, 512-13 & n. 9 (2009). Available at <https://doi.org/10.37419/TWLR.V15.I3.1>.

10. Pauline H. Tesler, Collaborative Family Law, the New Lawyer, and Deep Resolution of Divorce-Related Conflicts, 2008 J. Disp. Resol. Article 7, 83, 92 & n. 23 (2008). Available at: <https://scholarship.law.missouri.edu/jdr/vol2008/iss1/7>; Pauline H. Tesler and Peggy Thompson, Collaborative Divorce: The Revolutionary New Way to Restructure Your Family, Resolve Legal Issues, and Move on with Your Life (2008). Available at: <http://www.kmfamilylaw.com/wp-content/uploads/2015/06/CollaborativeDivorce.pdf>; Anjela A. Shutts, The Help: The Addition of Third Party Neutrals for Collaborative Divorce Practices, Drake Law Review Discourse, 101, 103-04 (Feb 2017) Available at: <https://lawreviewdrake.files.wordpress.com/2015/01/shutts-online-final-edit-ready-for-upload.pdf>; Pauline H. Tesler, Goodbye Homo Economicus: Cognitive Dissonance, Brain Science, and Highly Effective Collaborative Practice, Hofstra Law Review: Vol. 38: Iss. 2, Article 7, 635, 656-57 (2009). Available at: <https://scholarlycommons.law.hofstra.edu/hlr/vol38/iss2/7>
11. Stu Webb, Collaborative Law: A Practitioner's Perspective on Its History and Current Practice, 21 J. AM. ACAD. MATRIMONIAL LAW. 155, 165 & n. 33 (2008); Springfield Collaborative Divorce, The North Carolina Guide to Collaborative Divorce Proceedings, at 9 (2012), Available at: <https://springfieldcollaborativedivorce.com/The-NC-Guide-to-Collaborative-Divorce-WEB-VERSION.pdf>; Hei Yu Wong, *infra* n. 15 at 34; Shutts, *supra* n. 12 at 106; Tesler, Collaborative Family Law, the New Lawyer, and Deep Resolution of Divorce-Related Conflicts, *supra* n. 12 at 92-93 & n. 23.

12. Sherrie R. Abney, The Evolution of Civil Collaborative Law, 15 Tex. Wesleyan L. Rev. 495, 512 & n. 9 (2009). Available at: <https://doi.org/10.37419/TWLR.V15.I3.1>.
13. Hei Yu Wong, The Safeguarding of Children's Rights through Collaborative Practice in Resolving Disputes After Parental Separation, Leiden University Faculty of Law 2017-2018, version 22 09 2018 at 23-24. Available at: <https://www.universiteitleiden.nl/binaries/content/assets/rechtsgeleerdheid/instituut-voor-privaatrecht/jugdrecht/jr-thesis-h.y.-wong-thesis-for-jaap-doek-prize.pdf>
14. P. Oswin Chrisman, Gay G. Cox, and Petra Novotna, Collaborative Practice Mediation: Are We Ready to Serve this Emerging Market, 6 Pepperdine Dispute Resolution L.J. Iss. 3, at 457 (2006) Available at: <https://digitalcommons.pepperdine.edu/drlj/vol6/iss3/4>.
15. Id. at 452 & n. 8 (2006).
16. Global Collaborative Law Council, Protocols of Practice for Collaborative Lawyers, Definitions, Section 1.01(d) and 1.01(e) (2004; last revised November 2010). See also Chapter 10 (Retained Experts) and Chapter 11 (Consulting-Only Experts). Available at: [https://globalcollaborativelaw.com/wp-content/uploads/2017/06/GCLC\\_Protocols.pdf](https://globalcollaborativelaw.com/wp-content/uploads/2017/06/GCLC_Protocols.pdf).
17. See, e.g., TEX. FAM. CODE sec. 15.101. Texas law requires, unless parties agree otherwise in writing, a collaborative family law participation agreement to include provisions for "jointly engaging any professionals, experts, or advisors serving in a neutral capacity." Tennessee's Rules of the Supreme Court, Rule 53 (b)(2), has identical language.

18. [The Collaborative Family Law Group of Central Florida](#), has in its example Collaborative Participation Agreement:

Allied Professionals ("allied professionals") are professionals who may help the collaborative team, one, or both of us to understand specialized issues. Allied professionals may guide the team with appraisals, property valuation, financial advice, insurance, education issues, special needs issues, estate planning, or other matters, and may help us develop options and solutions. If an allied professional is needed, we will engage the allied professional individually (with notice to the team) or jointly.

Prior to providing services in the Collaborative Process, an allied professional must sign an Acknowledgement and Agreement to be Bound by the confidentiality provisions of this Collaborative Participation Agreement. Unless the team and allied professional agree otherwise in writing, the allied professional is disqualified from testifying as a witness, expert or otherwise, and the allied professional's written or oral communications are inadmissible in any judicial proceeding. After the Collaborative Process concludes, allied professionals may continue to provide services by separate engagement agreement.

19. Global Collaborative Law Council, Protocols of Practice for Collaborative Lawyers, supra n. 14.

20. Florida Academy of Collaborative Professionals webinar, supra n. 9, comments by Florida Allied Professional Matthew Bartolomei.
21. Florida Supreme Court Approved Florida Family Law Rules of Procedure Form 12.985(b)(2) (Collaborative Participation Agreement), Section III.C. provides: "An attorney individual consultant with whom a Client consults during the Collaborative Law Process is considered to be an adjunct Collaborative attorney subject to the disqualification provisions of this Agreement." Available at: [https://www.flcourts.gov/content/download/691100/file\\_pdf/985b2-10-20.pdf?inLanguage=eng-US&version=6](https://www.flcourts.gov/content/download/691100/file_pdf/985b2-10-20.pdf?inLanguage=eng-US&version=6).
22. International Academy of Collaborative Professionals, Minimum Ethical Standards for Collaborative Professionals, Standard 1.2 D. (Competence).
23. National Conference of Commissioners on Uniform State Laws, Uniform Collaborative Law Rules, Rule 2(1) (Definition of "collaborative law communication"), Rule 16 (Confidentiality of Collaborative Law Communication) and Rule 17 (Privilege Against Disclosure for Collaborative Law Communication) and Uniform Collaborative Law Act, Section 2(1) (Definition of "collaborative law communication"), Section 16 (Confidentiality of Collaborative Law Communication) and 17 (Privilege Against Disclosure for Collaborative Law Communication) (2010). Available at: <https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=7909f22c-dc22-ac59-53ba-53462258cad&forceDialog=1>.