



## Alternatives to Full Guardianship and Supported Decision Making

Special Olympics Family Forum; October 12, 2017  
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### Today's talk:

- Guardianship
- Short Break
- Supported Decision Making
- Questions

## Guardianship

- Types of Orders from Judge
- Who Guardians Are
- What the Judge Decides

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## Types of Guardianship

- There's more than one kind of supervision that a judge can order
- Full Guardianship
- Limited Guardianship
- Conservatorship
- Court system website



<http://www.courts.alaska.gov/shc/guardian-conservator/guardianship.htm>

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## Full Guardianship

- The one everyone thinks of ...
- A full guardian can make all decisions for another person, who is called a “ward”
- Some guardians include wards in decision making
  - allow and encourage their choices

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## Limited Guardianship

- A limited guardian makes fewer decisions
- A judge decides what kinds of decisions a limited guardian makes
  - Some can only make decisions about money, and services, and where someone lives or works

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## Conservator

- Makes decisions about money and how it gets spent and saved
- Makes decisions about property, too
- Can work with a person picked by Social Security to make decisions about Social Security payments
  - Called a “representative payee”

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## Family Guardians

- Parents
- Brothers or sisters
- Other relatives
- Someone very close to the family or person with disability

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## Public Guardians

- Appointed by a judge
- Office of Public Advocacy (OPA)
- Professional public guardians
- New idea: public volunteer guardians
  - Trained by professionals

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## The Judge Decides “Legal Capacity”

- Judge decides if the person can make decisions for themselves
  - about health, safety, services, money
  - Called “**legal capacity**” to make decisions
- Judge usually gives one “yes or no” answer for all decisions

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## The Judge Decides “Legal Capacity”

- Judge looks at capacity at the time of the court case
- Judge doesn't look at support for making decisions
  - Family, friends, employers
- Judge doesn't look at use of services to help with decisions
  - Care coordinators, doctors, property managers, legal advocates, agencies

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## What if we did the legal part another way?

- Legal plan that:
  - Has more supervision for decisions with more risk?
  - Less supervision for decisions someone is obviously good at on their own?
  - Changes as someone gets more skills and experience?
- What if we could write a legal agreement that built in support from others?

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## Information about Guardianship

- Disability Law Center's Guardianship Booklet at:  
<http://www.dlcak.org/files/pdf/Publications/GuardianshipinAK.pdf>
- ASAGA (Association of guardians) videos at: <http://asaga.info/educational-resources/>

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## Quick Break



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## Supported Decision Making Agreements

- What they are
  - And why we need them
- How to make them

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## Supported Decision Making Agreements: Another Choice

- Full Guardianship works for some people
  - It is what people want for themselves
  - It is easier for families
  - Responsibilities clear for everyone
  - Guardians know what needs to be done
  - A lot of guardians consider what wards want and give choices
    - Usually try to do the right thing for wards
- Then why do we need another choice?
  - What do we fear?

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## Looking ahead . . .

- 1930's average life expectancy for person who experiences I/DD was 22 years
  - now 70 years
- SDMAs create a blueprint; a process and structure
- SDMAs include important information about communication methods, decision making abilities, preferences, supporters (historical record of decision making)
- Court would look to history if there was a petition

## What people say they want:

- Independence
- Choices about what they do every day
- Plan and take responsibility for future
- Civil rights
- Protection from abuse or neglect

## A Supported Decision Making Agreement is:

### Making Agreement is:

- Written agreement about ways of doing things with chosen people
- To help a person with a disability
- Make decisions and communicate to other people decisions about his or her life

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## Important Ideas

- Everyone can make decisions about something in their lives
- Everyone has a will and goals and things they want
- People can say what they want
  - They are understood by people who know them well, and
  - Who they trust

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## First Step:

### Team Support for Decision Making

- Teams of supporters offer different ideas, information, and advice
- Teams of supporters mean more people who are able to help
- Teams of supporters share the work of helping with decisions

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## Team of Supporters

- Supporters help a person:
  - Understand information and choices
  - Focus on decision making
  - Think about which path leads to goals
  - Interpret and/or help communicate decisions to other people

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## Second Step: Meet With Team of Supporters

Talk about:

- How you make decisions, now
- What decisions you make, now
- Goals you have for yourself and your life
- Skills you have for moving toward goals
- Skills you want for moving toward your goals
- Help you already have
- Help you want/need

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## Third Step: Write an Agreement

- To make sure that decisions are leading toward a person's goals
- Many agreement forms are available
  - <http://www.supporteddecisionmaking.org/sites/default/files/sample-supported-decision-making-model-agreements.pdf>
- We are developing some forms for Alaska, too

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## Tools for Making a Supported Decision Agreement

- Agreement form filled in with names of supporters and how they will help with decisions
- Attach other documents that help with the plan
  - Medicaid Waiver Plans of Care
  - Advanced Healthcare Directives
  - Shared bank account paperwork
  - Individual Plans for Employment
  - Transition plans in Individualized Education Programs
  - Representative Payee Agreements
  - Path to Work Plans
  - Powers of Attorney
  - ABLE Accounts
  - Limited Guardianship or Conservatorship Order

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## Example: John

- 40 years old
- Owns his own condo and car
- Works 30 hours a week as janitor (for 10 years)
- Gets Social Security benefits
- Has a representative payee appointed by Social Security office
- 6 brothers and sisters; 5 local (supporters)
- **ALMOST LOST HIS CONDO**

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## Instead of full guardianship . . .

- Ticket-to-Work Coordinator
  - Made a Path to Work plan so he doesn't lose benefits
  
- Older sister has Power of Attorney over some finances
  - Can get all bills and banking information from rep payee or bank
  - Her signature is required for withdrawals from savings account

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## Instead of full guardianship . . .

- “Reasonable Accommodation” from condo association
  - Crisis plan if he needed help
  - Phone list of supporters
  - What each supporter would do to help him choose what he needed
  
- Checking account with fixed amount in it each month
  - Rep payee would send accounting to John and to older sister

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## Instead of full guardianship . . .

- Limited guardianship order for condo membership duties
  - Younger sister
  - All notices
  - Attend condo association meetings with him
  - Property management company contact
  - No legal action without notice to her

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• **QUESTIONS?**

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## Planning/Support Information

- <https://futureplanning.thearc.org/pages/learn/future-planning-101>
- <http://www.supporteddecisionmaking.org/sites/default/files/Supported-Decision-Making-Teams-Setting-the-Wheels-in-Motion.pdf>
- <http://www.supporteddecisionmaking.org/sites/default/files/sample-supported-decision-making-model-agreements.pdf>

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## Trainings: Guardianship and Supported Decision Making

- Stone Soup Group
  - October 11<sup>th</sup>, 5:30-7:30 pm
- Family Forum, Special Olympics
  - October 12<sup>th</sup>, 6:00-7:30 pm
- Aging and Disability Summit
  - October 13<sup>th</sup>, 1:00-2:00 pm
    - (also look for the keynote speaker that day)
- ASAGA (family guardians) Conference
  - October 27<sup>th</sup>, 12:00-2:00pm

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