

*Credit to The Arc of Calhoun County

Family Conversations about Supported Decision-Making

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What We Will Discuss

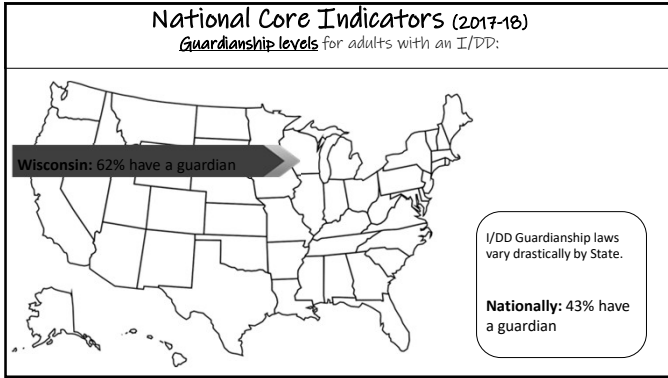
- What guardianship does and does not do. Alternative options to guardianship.
- How to maximize decision-making for your loved one, regardless of what legal route you take
- Strategies for offering more opportunities for your loved one to learn and practice decision-making

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What emotions lead to seeking Guardianship?

**LOVE
FEAR
CONCERN**

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Every person can make choices and has a right to make decisions. People who have a cognitive or intellectual disability may express those choices/decisions in non-traditional ways. Any legal system¹ or proceeding, which deprives an individual of her/his right to be accommodated and supported in choosing and making decisions and which appoints a substitute decision-maker based on tests of competence, makes that person vulnerable and deprives him/her not only of his/her right to self-determination, but also of other rights, which should be inalienable.

Guardianship is a situation, recognized by law, under which one person or entity exercises power over and on behalf of another person. ("a ward")

Guardianship

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<p>Why rethink Guardianship?</p> <p>It simply does not do what one wants it to do!</p>	Avoid public declaration of incompetency
	No independence, dignity, freedom of choice
	People deal with guardian – not person
	Expense – attorneys, hearings, evaluations
	Courts do not always follow law (partial vs. plenary, promote independence, etc.)
	Very difficult to modify or terminate
	Attorneys and G.A.L.s – very little training
	Corporate guardian problems- take money and independence

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The vast majority of those who end up petitioning the court to appoint a guardian for some person are either related to the person or a friend.

However, most petitioners do not come to the decision to seek guardianship on their own, but are encouraged to do so by someone else.

Guardianship

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“We have to reject the very idea of incompetence. We need to replace it with the idea of ‘assisted competence’. This will include a range of supports that will enable individuals with cognitive disabilities to receive assistance in decision-making that will preserve their rights...”

-Thomas Nerney, Director of Center for Self Determination for Persons with Developmental Disabilities

Guardianship

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Must recognize incongruity of removing a person’s rights to protect them

Guardianship

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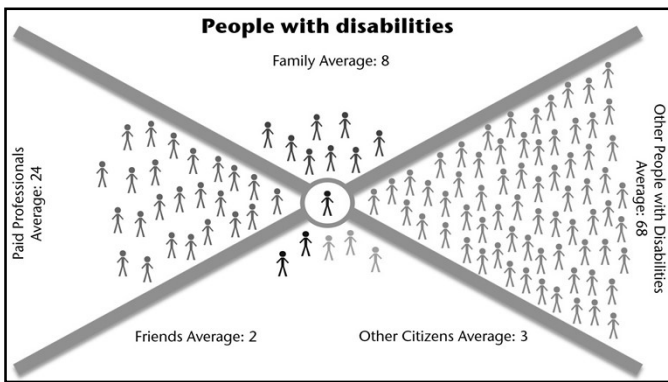
The #1 thing

NETWORK

- ✓ Caring and involved family/friends
- ✓ Community networks/connections

Unpaid Supports

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Current formal tools for people who need help with decisions

<p>Release forms</p> <ul style="list-style-type: none"> • Person signs release forms authorizing a specific person(s) access to certain kinds of records (health, financial, etc.). • Some release forms may allow a person to make certain records to be released while retaining privacy over others. • Some release forms may provide one-time or time-limited access to records; others releases may remain in effect in perpetuity. 	<p>Supported Decision Making agreements (Wisconsin)</p> <ul style="list-style-type: none"> • A Person makes all their own decisions. Person identifies areas of his life in which they want support. Identifies a representative to help with gathering information, compare options, and communicate their decisions to others. • The Supported Decision-Making agreement outlines what types of decisions the Person wants support and the role of the representative. • Agreement can be changed or stopped at any time by the Person or supporter. 	<p>Representative payee</p> <p>The Social Security Administration (SSA) appoints an individual/organization to receive SSI/SSD benefits for a person who cannot manage or direct the management of their own benefits.</p> <p>To change a Representative Payee, the Person must complete an application process with the SSA.</p>	<p>Power of Attorney, medical proxy</p> <p>Private legal arrangements that permit others to act on the Person's behalf.</p> <p>Power of Attorney (POA) designates another POA individual to make certain decisions (generally health care or financial) on the Person's behalf. POAs can be set up in different ways. Some POAs are activated only when a person is incapacitated. Or a POA can be active in an individual state that the Person is always the designated decision maker in certain areas.</p> <p>Medical proxy is a person's appointment to express a person's wishes and make health care decisions for the person if the person cannot speak for themselves.</p>	<p>Limited or Full Guardianship</p> <ul style="list-style-type: none"> • Involves some or all decision-making authority from the Person to a court-appointed Guardian. • Once guardianship is granted by the court it is difficult (and costly) to modify or reverse the guardianship; any changes must be made through a formal court process.
Less Limiting				More Limiting

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The LEAST Intrusive Alternative

RELEASE OF INFORMATION

- ☑ Be connected and present
- ☑ Go to meetings/planning sessions

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Person Centered Planning

“Person-centered planning (PCP) is a process for selecting and organizing the services and supports that (a) person with a disability may need to live in the community. Most important, it is a process that is directed by the person who receives the support.

PCP helps the person construct and articulate a vision for the future, ... engage in decision-making and problem solving... It highlights individual responsibility, including taking appropriate risks (for example, whether arranging for back-up staff is needed).

PCP should involve the individuals receiving services and supports to the maximum extent possible, even if the person has a legal representative. – Administration for Community Living

Person Centered Planning

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KEY POINTS:

- Person Directed
- Capacity Building
- Person Centered
- Network Building
- Outcome Based
- Community Accountability

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Rituals and Routines

To understand a person's rituals and routines, record what the Monday through Friday schedule looks like (without being intrusive)

- What time do they leave for the days activities?
- What do they do when they get up in the morning?
- What do they eat for breakfast?
- How do they get ready for the day?
- What does the individual do when they arrive at school, program, work, etc.?
- What does the person do when they get home in the evening?

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Rituals and Routines

You should also record what the person does on the weekends, because weekend activities are usually very different from those of the weekdays.

Next, look over all that very detailed, specific information. Hopefully, you will have learned some general things about this person.

- What things make a good day versus a bad day?
- What activities make that person happy?
- What activities make them sad or frustrated?
- What people or individuals do they enjoy spending time with?
- What are events or situations that make them angry or sad?
- What features of their environment are pleasant or stressful for the person?

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A person-centered plan is meant to empower each individual to communicate what they want in life and to make decisions about the supports desired and needed to achieve their priorities and goals.

When people are supported "one person at a time," each individual is able to create their own life. The person-centered team or circle of support team assures that all needed supports are available.

The power and decision-making rests with the person with the support of his or her own team.

Empowered Individuals

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Power of Attorney

✓ Appoint an Agent to handle certain decisions or support with making decisions

✓ Can be effective immediately

✓ Can be as broad or narrow as desired

POWER OF ATTORNEY FOR MEDICAL TREATMENT DECISIONS

I am _____ and I live at _____

I want my mother _____ to help me if I am sick and need to see a doctor. I want her to make decisions about my medical care, including medication and surgery.

If my mother _____ is not available, I would like my _____ to make these decisions instead.

If neither of the above are available, I would like my _____ to make these decisions.

I understand that if I want to change my mind about who makes these decisions, I can destroy this paper or let people know I want to change my mind.


(Date) _____ (Signed) _____

Signed by _____ Signed by _____

(Print full name) _____ (Print full name) _____

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Representative Payee



A person or organization designated through the Social Security Administration to handle a person's Social Security check

SSA has special paperwork and procedures for appointing a representative payee

Can be changed or revoked only if SSA consents.

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Other alternatives to guardianship:

- Financial Supports
- Home Supports
- Community Supports

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Let's talk about
Financial
Supports

- Withdrawal Limit
- Credit Card Opt-Out
- Banking Services
- Specific gift cards
- Ceiling limit amount
- Co-Signer
- Personal Money Manager
- Fiscal Intermediary

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Let's talk about
Home
Supports

- Meal delivery
- Nutrition, diet, or mealtime support
- Service animals
- Assistive technology/equipment
- Group homes/Roommates
- Home visitors
- Postal/Utility/Phone checks
- Medication assistance
- Home health services

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Let's talk about
Community
Supports

- Transportation assistance
- Service animals
- Employment/Volunteerism
- Religious/Spiritual
- Assistive technology
- Case management
- Supports coordination

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Sources: The Arc Michigan, MDHHS, WDHS, MPF
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Supported Decision-Making is a Legal Option in Wisconsin

<https://www.dhs.wisconsin.gov/forms/f02377.pdf>



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Who in WI Can Use Supported Decision-Making agreements?

- People who can use Supported Decision-Making agreements are defined within Wisconsin's law as people with "functional impairments" and include:
 - People of any age with degenerative diseases
 - People of any age with conditions that substantially interfere with the ability to provide self care
 - People with physical disabilities or conditions that substantially limits one or more of their major life activities
 - People with Intellectual/Developmental Disabilities
 - People with mental health conditions

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Benefits of using Supported Decision-Making

- Supported Decision-Making is a fundamental part of Self-Determination.
- People with greater self-determination are:
 - Healthier
 - More independent
 - More well adjusted
 - Better able to recognize and resist abuse (safer)
- (Wehmeyer, Palmer, Rifenbark, & Little 2014; Powers et al., 2012; Khemka, Hickson & Reynolds 2005; Wehmeyer & Palmer, 2003; Shogren, Wehmeyer & Shwartz, 1997 & 1998; Wehmeyer, Kelchner, & Reynolds 1996)

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Opportunities for Choice-Making



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Examples: how can a Supported Decision-Making agreement help people?

- Enables students with disabilities to allow their parents to continue to participate IEP meetings.
- Under Wisconsin law, schools are required to provide students and parents with information on supported decision-making and other alternatives to guardianship.



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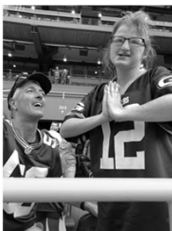
Examples: how can a Supported Decision-Making agreement help people?

- Helps ensure the Person is clearly understood by others.
- People who have challenges with speech, use sign language or communication devices, and/or who are non-verbal communicators might use a Supporter to ensure the other party understands them.



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Honoring the Ability to Make Choices



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Honoring the Ability to Make Choices





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WI-BPDD Has Supported Decision-Making Resources

Wi-bpdd.org

There are alternatives to guardianship. Supported decision-making empowers individuals with disabilities to make informed decisions about their life that protect their rights and ensure their safety and privacy. It involves family and friends working together to help them make complex decisions.

How can you do this without guardianship? We can help. Download the guide and toolkit below. These will help you think about and enact your own support agreement, allowing the supports and safeguards families need without going to court and imposing guardianship restrictions.

Supported Decision-Making and other Alternatives Guidebook

Supported Decision-Making Toolkit

Supported Decision-Making Webinar
Watch one of the newest webinars on

fi.claas@wisconsin.gov
608.266.5395

Questions?
Contact FI

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