

Legal Transition to Adulthood for Young People with I/DD



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Disclosures

Today's speaker has no financial relationships with an ineligible company relevant to this presentation to disclose.

None of the planners have relevant financial relationship(s) to disclose with ineligible companies whose primary business is producing, marketing, selling, re-selling, or distributing healthcare products used by or on patients

All relevant financial relationships have been mitigated



Objectives

1. Overview of decision-making options to support young people turning 18 with I/DD
2. Resources for providers and families

Legal Decision-Making for Adults who Require Assistance

Legal Capacity

People age 18 and up are presumed, under the law, to have capacity to make their own decisions.

- Health care
- Education
- Finances and credit
- Who they see
- Voting

Capacity = ability to:

- 1. Take in and process information**
- 2. Understand the effect of a decision**
- 3. Communicate decision**



Options to Help with Medical Decision Making

Less Restrictive Options

- Informed consent
- Supported Decision-Making Agreement **new*
- Durable Power of Attorney

More Restrictive Options

- Protective Arrangement **new*
- Guardianship of the Person and Conservatorship (Previously Guardian of the Estate)
- Emergency Guardianship **new*

Options to Help with Medical Decision Making

Less Restrictive Options:

- Disabled person makes decisions with the assistance of others
- Disabled person has capacity to understand what they are agreeing to and the decisions that need to be made
- Does not require a court order
- Can be modified or terminated by the disabled person

More Restrictive options:

- Guardian makes decisions on behalf of the disabled person
- Can only be used if less restrictive options cannot be used
- Requires a court order and ongoing court involvement
- Requires a court order to modify or terminate

Less Restrictive Options



Informed Consent Statute – RCW 7.70.065: allows providers to accept consent from others for healthcare

Supported Decision Making Agreement – agreement between an adult with a disability and one or more supporters. Allows supporters to assist in decision-making process

Durable Power of Attorney (DPOA) – Authorizes a trusted person (the “agent”) to take actions or make decisions on behalf of the person who signs (“the principal”)

Representatives/protective payees: SSA or DSHS can name a person to manage cash benefits on behalf of a person with disabilities

Sample DPOAs and SDMAs can be found on washingtonlawhelp.org

More Restrictive Options



Guardianship/Conservatorship – court appoints a “guardian” or “conservator” to make decisions on behalf of person with disabilities

NOTE: New laws change terminology and require less restrictive options to be considered and tried first.

Protective Arrangement – court appoints guardian or conservator to complete a specific task or make a specific decision for an individual. Process is similar to guardianship /conservatorship with no ongoing authority in a protective arrangement.

Emergency Guardianship – Court can appoint an emergency guardian immediately and without notice. Must show that there is a substantial harm to person’s physical health, safety, or welfare. Appointment is for 60 days.

References

- www.washingtonlawhelp.org
 - Durable Power of Attorney:
 - Supported Decision Making Agreement
- Court websites:
 - Washington Courts website:
<https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=139>
 - King County Superior Court:
 - <https://kingcounty.gov/~media/courts/superior-court/docs/ex-parte-probate/KCSC-UGA-IMPLEMENTATION.ashx?la=en>
- Northwest Justice Project - CLEAR: 888-201-1014 or online application for public benefits/health benefits issue: www.nwjustice.org/apply-online

Questions

THANK YOU!

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