

Alternatives to Guardianship

(Developmentally Disabled Individuals)

PERSON-CENTERED PLANNING

UTILIZING NATURAL SUPPORTS:

Person-centered planning assumes that all individuals have preferences no matter how severe their disability and that decisions are best made by a recipient him/herself with the help of family, friends and others in the individual's circle of support. Natural support persons cannot legally substitute for the judgment of the recipient. However, those persons who are most knowledgeable about and can best represent the recipient's values, wishes and choices can act as adjunct decision-makers with the consent of the recipient.

TRANSITION PLANNING:

The choices for minors with disabilities reaching the end of school age can be complex and may determine how independent he or she is as an adult. Planning the transition from school to adult life begins, at the latest, during high school. Transition planning is required by law to start once a student reaches 14 years of age, or younger if appropriate. This transition planning becomes formalized as part of the student's Individualized Education Program (IEP). Transition services are provided by the school and are intended to prepare students to make the transition from the world of school to the world of adulthood. In planning what type of transition services a student needs to prepare for adulthood, the IEP Team considers areas such as postsecondary education or vocational training, employment, independent living and community participation. The transition services are a coordinated set of activities that are based on the student's needs and that also take into account his or her preferences and interests. Ideally, transition services should be integrated with the minor's Person-Centered Plan.

INDEPENDENCE PLANNING:

Persons with developmental disabilities who receive Supports Coordination services are entitled to Independence Planning. Independence Planning is a set of coordinated, planned steps to assist the individual in gaining life skills and knowledge to support the person's autonomous or naturally-supported decision-making.

RECOVERY PLANNING:

Persons with mental illness can gain hope and avoid potential loss of their legal decision-making authority by changing their attitudes, values, feelings, goals, skills and/or roles vis a vis their mental illness diagnosis. Recovery is a way of living a satisfying, hopeful and contributing life even with limitations caused by the illness. Some individuals may choose to develop a Wellness Recovery Action Plan.

CRISIS PLANNING:

Through the person-centered planning process the recipient is offered an opportunity to develop detailed options for crisis resolution in the event he or she experiences a crisis or to avoid a psychiatric emergency utilizing natural, community and professional supports. The crisis plan also includes strategies and choices for treatment and how the recipient's personal affairs will be managed in the event the emergency requires protective and/or restrictive measures.

EXPANDING ACCESS TO MENTAL HEALTH OR COMMUNITY-BASED SUPPORTS:

Through the Person-Centered Planning process, providers explore and ensure that recipients are aware of adjunct supports which he or she may be eligible to receive from Northern Lakes Community Mental Health (NLCMH) or another community agency. These may include Community

Living Supports, Peer Supports, Home Nursing, Home Health Aides, Chore Services, Home-Delivered Meals, Transportation, Bill-Payer programs, etc.

LEGAL INSTRUMENTS FOR SURROGATE MEDICAL OR MENTAL HEALTH CARE DECISION-MAKING:

An individual who is of "sound mind" may execute a variety of legal documents expressing his/her wishes and/or designating another individual to act on his or her behalf to honor previously stated wishes in certain circumstances or under certain conditions. As guidance, the term "of sound mind" is the same test of capacity used for last wills and testaments created under the Estates and Protected Individuals Code (EPIC) (MCL 700.2501), but is only defined in Michigan case law.

"Advance Directives"

Living Wills (advance directives without designation of patient advocate):

While not legally binding in Michigan without the designation of a durable power of attorney or patient advocate, a legally competent individual may express, in writing his or her wishes for treatment or care in the event of incapacity. If clearly expressed, these wishes must also be honored by a guardian appointed after the date they were created except under certain conditions allowed by law.

Designation of Patient Advocate for Health Care Decisions (DPOA-HC):

Also commonly referred to as a Health Care Proxy, a type of Durable Power of Attorney whereby an individual designates in writing another individual who is 18 years of age or older to exercise powers and preferences concerning care, custody and medical treatment decisions for the individual in the event the person becomes incapacitated. This person, called a Patient Advocate, may also be authorized to make an anatomical gift on the person's behalf in the event of death. (Estates and Protected Individuals Code, MCL 700.5506-5513, as amended; Designation of Patient Advocate).

Designation of Patient Advocate for Mental Health Care Decisions (DPOA-MH):

Also commonly referred to as a Psychiatric Advance Directive, a type of Durable Power of Attorney whereby an individual designates in writing another individual who is 18 years of age or older to exercise powers and preferences concerning care, custody and mental health treatment decisions for the individual in the event the person becomes incapacitated. This person is also called a Patient Advocate (Estates and Protected Individuals Code, MCL 700.5506-5513, as amended; Designation of Patient Advocate).

Do Not Resuscitate Declaration (DNR):

A document created and executed pursuant to the Michigan Do-Not-Resuscitate Procedure Act, PA 193 of 1996 directing that resuscitation will not be initiated in the event that the individual suffers cessation of both spontaneous respiration and circulation. A DNR Declaration is not legally binding in a hospital, a nursing home or a mental health facility owned or operated by the Department of Community Health. A DNR declaration may not be used in an Adult Foster Care home inasmuch as AFC Licensing Rules require staff to initiate and take life-saving measures if a resident has a medical emergency.

LEGAL INSTRUMENTS FOR SURROGATE LEGAL OR FINANCIAL DECISION-MAKING:

Non-Durable Power of Attorney:

A legal document by which an individual grants in writing specified powers to a trusted person age 18 or older who acts as the individual's agent (attorney in fact) that is effective at a specified time or

circumstance.

"Specific" or "Limited" Power of Attorney:

A type of Power of Attorney that is for a single, specific and time-limited purpose.

Durable Power of Attorney (General DPOA):

A type of power of attorney by which an individual designates another person who is 18 years or older as his or her attorney in fact in writing and which is not affected by the principal's subsequent disability or incapacity and notwithstanding the lapse of time since the execution of the instrument (Estates and Protected Individuals Code, MCL 700.5501).

Representative Payee:

A person designated by the Social Security Administration to receive and manage federal benefit funds on behalf of an individual to meet his or her basic needs. The Social Security Act requires that a representative payee assist the beneficiary in gaining skills to regain independence and decision-making authority over his or her benefits.

ALTERNATIVE MEANS TO PROTECT FINANCES

Electronic Bill Paying:

Many individuals who have difficulty paying bills can arrange to have them automatically deposited and paid directly from their bank accounts each month to a creditor.

Pour-Over Accounts:

Some banks have available a restricted access account that only leaves a specified sum of money in it for withdrawal at all times. Thus, someone who has problems managing their money will only be able to withdraw a limited amount of money at any given time.

Joint Property Arrangements or Dual Signature Bank Accounts:

Joint property arrangements are where two or more people share ownership of real estate or bank accounts. A family member or trusted individual can be listed on a joint bank account so that the other person can take care of their finances. A choice to create joint property arrangements or bank accounts should be very carefully considered since all persons listed have complete authority over monies in the account or over other property, giving rise to the potential for exploitation.

Fiscal Intermediaries:

An independent legal entity (organization or individual) that acts as a fiscal agent of an individual for the purpose of assuring fiduciary accountability for the funds comprising an individual's budget.

Special Needs Trusts:

Sometimes referred to as an "amenities trust," this is a legal instrument that allows an individual with a disability to create a trust and designate a trustee to spend funds in the trust to enhance the life of an individual as a supplement to public funds. Such trusts may be especially useful for individuals with more than \$2,000 in savings as a means of preserving funds without a loss of SSI or Medicaid benefits.