

## The Advocacy Alliance

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## The Advocacy Alliance

- Non Profit organization since 1955, originally founded as a Mental Health Association
- We currently serve 45 counties in PA for a variety of Services. We do have a few special needs trusts for individuals living outside of PA.
- Most of the services provided by our organization support individuals lives so that they can live as independently as possible.

## OUR MISSION

- Is to promote mental well-being, and support Recovery for adults who have a mental illness; Resiliency for children and adolescents who have an emotional/behavioral disorder; Everyday Lives for individuals who have developmental disabilities' and Independence for older adults and individuals with physical disabilities by providing advocacy and culturally competent services.

## TAA Services

- Representative Payee
- Advocacy Services for Individuals with mental illness or children with emotional/behavioral disorders
- Community Satisfaction surveys
- Quality of life surveys with individuals with developmental services
- Community Support Program
- Recovery Center for individuals living with Mental Illness
- Health Care assessments with individuals living in residential and community settings
- Warm Lines

## Services continuation

- Early Intervention Evaluation Teams
- Incident management
- Guardianship/Power of Attorney Services
- Trust Services

I need a Guardian for my  
client/consumer or family  
member????

**WHY?**

## Guardianship in the Media

- Disclaimer: Guardianship is a powerful tool and it can be abused!
- [https://youtu.be/y\\_wK3a9jWwA](https://youtu.be/y_wK3a9jWwA)

## National Guardianship Association



- **WHAT IS GUARDIANSHIP?**
- Guardianship, also, referred to as conservatorship, is a legal process, utilized when a person can no longer make or communicate safe or sound decisions about his/her person and/or property or has become susceptible to fraud or undue influence. Because establishing a guardianship may remove considerable rights from an individual, it should only be considered after alternatives to guardianship have proven ineffective or are unavailable.

## Understanding Guardianship

- Legal process first and foremost taken to ensure protecting an individual
- A legal process that takes away someone's right to make their own decisions
  - Everyday decisions we all make without thinking- small ones to big ones!
  - Decisions we get as a legal right of turning 18 in this country including the right to drive which in most states you get earlier.

## Process of obtaining guardianship

- Court procedure
  - Costs associated
- Lawyer needed to petition the court
  - Doctor's report of incapacity
  - Appointment of lawyer to represent the alleged incapacitated
  - Family Members/ reasons they cannot serve/opportunity to object
  - Emergency vs temporary vs Final petitioning
  - Hearing(s)
- Reporting requirements
  - Inventory/90Day /Annual
  - Informing the court of need to reverse the Guardianship/ Returning Rights
- Oversight
  - County Clerk/Judge

## Types of Guardianship

- Guardian of Person
- Guardian of Estate (some states call this Conservatorship)
  - Emergency Guardian
  - Temporary Guardian
  - Plenary Guardianship
  - Limited Guardianship

## Why do I need a guardian?

- My consumer needs a surgery and has no family?
- My friend has no family members or she doesn't talk to her family so she wants a guardian.
- My cousin is taking all of grandmother's money and she can't pay her bills.

## What a Guardian can and can't do.

- Not legally allowed by statute
  - Give consent for
    - Sterilization
    - Abortion
    - ECT (electroshock therapy "shock treatment")
    - Psychosurgery
    - Admit someone to a psychiatric facility
  - Sell someone's home without court approval
  - In PA you cannot change someone's advance directive about end of life but can revoke a Power of Attorney
  - Enter a safety deposit box without a court order
  - Any other limits put on your Authority by the court.

## Additionally things that just "make sense"

- Should not be done practically or morally?
  - Forcing someone to take medications.
  - Controlling someone's behaviors "make them go to treatment".
  - Limiting freedoms without a reason.
  - Stopping someone from drinking ?
  - Restricting their communications and ???

## Decision Making as a Guardian

- Substituted Judgement
- Best Interest
  - Least Restrictive/Least Intrusive
  - Promotes and Supports abilities
  - Informed Consent
  - Risk/ Benefit

## PA CODE 6000.1017

- Guidance for Individuals without family or an advocate
  - Directs individuals working (County administrators, supports coordinators and others working with individuals) to help them seek out Health Care Representatives while they are capable.



## Does everyone who has an intellectual disability need a guardian?

- .....but what if they need a medical procedure?

## So I don't need guardianship???

- Alternatives to guardianship may include:
- Representative or substitute payee
- Case/care management
- Health care surrogacy
- Trusts
- Durable powers of attorney for property
- Durable powers of attorney for health care
- Living wills
- Community advocacy systems
- Joint checking accounts
- Community agencies/services
- Supported decision-making networks
- NGA website: <https://www.guardianship.org/what-is-guardianship/>



## Surrogate Health Care Decision Maker

- Someone appointed to make decisions on my behalf
  - Power of Attorney
    - Healthcare
    - Financial
  - Health Care Directive
    - Living Will
    - POLST
    - DNR
  - Mental Health Advance Directive

## Power of Attorney Document

- A legal document where the individual grants/gives authority (power) to another individual(s) to handle their decisions and/or their finances.
- Get legal advice, POAs are relatively inexpensive
- Downloads do not go give the individual the consultative time to understand what you may want in your document and the person you are choosing.
- Changes were made to the regulations as of 2016
- Understand the rights you are giving to another individual.
  - The POA document includes a cover page that is written in Capital letters explaining that you are giving away rights and powers "this is serious" The page is signed before we get to the POA document.

## More Information

- [www.disabilityrightspa.org](http://www.disabilityrightspa.org)
  - Videos and materials that can help understand Guardianship and Decision making
- [www.specialneedsalliance.org](http://www.specialneedsalliance.org)
  - Newsletter that discussing special needs issues related to Trusts, Able Accounts and Estate Planning
- [www.guardianship.org](http://www.guardianship.org)
  - Standards of practice
- [www.guardianshipcert.org](http://www.guardianshipcert.org)
  - Find a Guardian
- <http://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=20&div=0&chpt=55>
  - PA Code on Guardianship