Guardianship and Aging in Intellectual Disability

Part I

Prepared by the Center for Developmental Disabilities Evaluation and Research (CDDER) on behalf of the Massachusetts Department of Developmental Services (DDS)
The Need for Guardianship

- Person may or may not have a guardian
- Needs may change throughout a person’s life
- Person may develop a need for guardianship
- Guardians are appointed by the court
Who may become a guardian?

- Family
- Close family friend
- Any person interested in the welfare of a person found legally incompetent or incapacitated
- A professional who is willing to provide guardianship supports to individuals without other options
Role of Guardian for the Person Who is Aging

* A guardian may be needed to consent to medical treatment (routine/emergency care/hospital admissions/financial affairs)

* A guardian may be needed to make end of life decisions:
  * This may require an expansion of current guardianship status
When is Guardianship Appropriate?

Adult

- Competent and capable of making informed decisions
  - Guardianship is not appropriate
- Not capable of making informed decisions
  - Legally incompetent
    - Guardianship appropriate
    - Expanded guardianship for major medical decisions
Who Can Be a Guardian?

- A caring and concerned adult capable of making decisions in the person’s best interests

- No history of assault, abuse or neglect of the person in any way
Limited Guardian

* A guardian appointed to manage only certain decisions
  * For example: Some, but not all, medical decisions
* Can be appointed for a limited amount of time
  * For example: During an investigation, illness or psychiatric hospitalization
Full Guardian

- Manages all aspects of the person’s life:
  - Routine and emergency medical care
  - Any other decisions for which consent is needed
  - Limited financial matters
- Exceptions:
  - Extraordinary treatment
  - Rights granted by virtue of basic human rights
Expanded Guardianship

- For extraordinary medical treatment decisions
  - End of life decisions, such as Do Not Resuscitate (DNR) orders
  - Placement in a nursing facility for longer than 60 days
Others Who Can Consent

- Involved and loving family (for DNR/DNI)
- Health care agent, as named in a health care proxy
Types of Guardians

- Limited guardian
- Full guardian
- Not guardians, but may have authority to consent to certain medical decisions:
  - Involved and loving family in the case of DNR or DNI
  - Health care agent
More About Guardianship

* Please see: Guardianship and Aging in Intellectual Disability, Case Studies, Part II for case examples
Additional Webinars

* Guardianship and Aging in Intellectual Disability, Part I & Guardianship and Aging in Intellectual Disability, Case Studies Part II
* Life Sustaining Treatment Policy
* Massachusetts Medical Orders for Life-Sustaining Treatment (MOLST)
* End of Life Definitions
Additional Resources

Massachusetts Department of Developmental Services (DDS)

Center for Developmental Disabilities Evaluation & Research
http://shriver.umassmed.edu/cdder/aging_idd_education
Training produced by the Center for Developmental Disabilities Evaluation & Research (CDDER)

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