

Guardianship and Other Decision-Making Alternatives

Reaching the age of majority – 18 years old in Florida – means an individual is no longer a "minor." As such, the person has the right and responsibility to make certain legal choices that adults make. For some young adults with intellectual disabilities, this may be an exciting opportunity for increased independence. But there may also be family concerns about how to best support that person's self-determination in making important life decisions, such as in health care or financial management.

Many parents and caregivers are surprised to learn that when their child turns 18, they may not be able to direct or participate in their child's medical treatment, except as a proxy during an emergency. Further, banks and government agencies have neither the duty nor the authority to discuss an 18 year old's benefits or financial issues with parents. Families often ignore the problem, fearing the expense or complexity of court, and carry on with only minor difficulty until confronted by an emergency. But when an emergency finally occurs, their fears of expense and complication may be realized.

There are several levels of healthcare and financial decision-making assistance available to Floridians, ranging from informal "shared" responsibilities with a trusted friend or family member, to health care surrogacy, durable power of attorney or guardianship. State law requires, whenever possible, the use of the **least restrictive** alternative to protect persons incapable of fully caring for themselves or managing their affairs. Some families may find that "guardian advocacy" is a good option for individuals with an intellectual or developmental disability. This process delegates several rights of the individual to another person (such as a parent) without declaring them incapacitated.

Certainly, cost for legal services – which can exceed \$3,000 for guardianship - is a concern for most families. However, income-eligible consumers may qualify for pro bono or reduced-fee services through Florida Legal Services, a statewide network of organizations that provides legal assistance based on need (<http://floridalawhelp.org>). The Florida Bar also operates a lawyer referral service at www.floridabar.org.

Families should plan to address decision-making alternatives *prior* to their child's 18th birthday. After age 18, the process becomes more complex and, often, more expensive.

For more information about this topic, visit the Tool Box at www.FloridaHATS.org or contact Janet Hess at jhess@health.usf.edu, (813) 259-8604