

agency for persons with disabilities
State of Florida



Protecting
Civil Rights
by Understanding
Decision-Making Options



Learning Objectives

Recognize rights we all have

Describe characteristics of people who need decision-making assistance

Recognize the concept of least restrictive option for decision-making assistance

Identify at least 4 ways to provide medical decision-making assistance other than guardianship

Compare Guardian Advocacy (Chapter 393, F.S.) and Guardianship (Chapter 744 F.S.)



People are
more alike
than
different!





Rights that we all have

- 24 Rights
- See file: 01 Rights List



Decision-Making Assistance Who Needs It?

People with a terminal illness

Elderly folks

People who have
lost some ability

People who are not
comfortable making
decisions

People who are
concerned about a
change in their
circumstances

YOU!

Your Parents



Civil Rights Most Difficult for Persons with Developmental Disabilities

- Consent to medical, dental and surgical procedures;
- Manage money and/or property;
- Apply for governmental benefits;
and
- Decide where to live.

Florida's Definition of Developmental Disability

(Chapter 393.063(10), F.S.)

Mental Retardation

Autism

Cerebral Palsy

Spina Bifida

Prader-Willi



Nothing About Me Without Me



Importance
of
Involving
the Person

Least Restrictive Concept



To allow people in need of decision-making assistance to use their abilities to the fullest while receiving assistance with decision-making when needed.



Physical disability

does NOT mean

intellectual disability



Intellectual disability does NOT always mean a person cannot:

- have an opinion, or
- make a decision,
- do certain things.

**The person
may just need
assistance!**



Ways to Provide Decision-Making Assistance in Medical Areas by Not Removing Rights

- Make Own Decisions (with or without assistance)
- Durable Power of Attorney
- Other Advanced Directives
- Medical Proxy

Make Own Decisions

(with or without assistance)

- Provides information,
- Provides advice,
- Provides reassurance by:
 - Accompanying person to meetings,
 - Supporting the person's decision(s)



Durable Power of Attorney



- Legal Decision Maker
- Competency of Signer

Other Types of Advance Directives

- Living Will
- Health Care Surrogate Designation
- Anatomical Donation
- Health Care Surrogate



Five Wishes



- Living Will
- Medical Durable Power of Attorney
- Legal in Florida



Medical Proxy

Under Florida Statutes 765.401 a medical proxy can be appointed to an incapacitated or developmental disabilities patient:

- Who has no advance directive, and
- Who has no designated or alternative surrogate or that surrogate is no longer available to make health care decisions, and
- Who has no court appointed guardian(s) or guardian advocate.



Types of Guardianship (Court Removes Right(s))

Guardian Advocacy

(Chapter 393.12, F. S.)

or

Guardianship

(Chapter 744, F.S.)



Conflict of Interest

How do I know if this exists?

(See file 08 Conflict of Interest)



REVIEW: Consent to Treatment

1. Make Own Decision (with or without assistance)
2. Durable Power of Attorney for health care
3. Health Care Advanced Directives
4. Medical Proxy
5. Guardian Advocacy/Guardianship



How Do I Find Legal Assistance?

See file 09 Legal Resources



Other Resources

Planning Ahead Guide

<http://fddc.org/>

Look on resources tab



The decision maker is
always the person
unless
s/he has given written
permission to another or a
court has taken away his/her
right(s).



Thank you in advanced for protecting
the legal rights of persons with
disabilities and for sharing all these
options with them when they need
decision-making assistance.

(See file 10 credo)