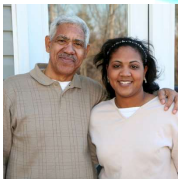


HOW TO GET GUARDIANSHIP OF A PARENT


The Differences Between Court-Appointed Guardianship and Agent Under Medical Durable Power of Attorney

Pamela D. Wilson, MS, BS/BA, CSA, NCG



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TODAY'S CONVERSATION



- Why decision-making power is important
- Areas where medical oversight and decision-making is critical
- Clinical capacity vs legal capacity
- Concerns about medical liability by the healthcare system and potential harm to parents

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WHY DECISION-MAKING POWER IS IMPORTANT



- Conflict within families about care
- Disagreements with healthcare providers
- Duty of care planning
- Duty of care oversight
- Advocating for care

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MDPOA VS GUARDIANSHIP



- Medical durable power of attorney
 - A working relationship between the principal and the agent that requires a high degree of trust – *MDPOA is revokable*
- Guardianship
 - A relationship of best interest that has court oversight – *a successor can be appointed with cause*
- In either role you must learn and educate the healthcare system about your level of responsibility and decision-making power


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DECISION-MAKING: MEDICATIONS

Physician and Provider Oversight

- Medication issues are a top reason that elderly are sent to the emergency room
- 25% of visits to the ER are medication related
- Physicians short-cut the decision making process by asking the "patient" (your parent) for consent
- Medication interactions and allergies
- Permission for all medication changes must be discussed in advance with the guardian or agent




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DECISION MAKING: UNEDUCATED HEALTH CARE PROVIDERS

Assuming Health Care Providers Offer Reliable Information

- Health insurance company interactions
 - Insurance pre-approvals in network
 - Pre-op instructions i.e. colonoscopy etc.
- Non-medical providers have care limitations
 - Assisted living communities
 - In-home care companies and providers



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7 **DECISION-MAKING:
HEALTHCARE BIAS AGAINST THE ELDERLY**

- Preference for treating the young
- Physicians are limited by their clinical expertise – can make poor treatment decisions especially for patients with dementia if not trained in geriatrics
- Herb “wheelchair”
- Joan’s story “tired”
- Elizabeth “walking”



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8 **THE DIFFERENCE BETWEEN
CLINICAL CAPACITY AND LEGAL CAPACITY**



- The healthcare system and clinical capacity
- Patient rights: training care staff - Harriett
- Medical advocacy and disagreeing with physicians - Brenda

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9 **MEDICAL LIABILITY**

- “Against medical orders”
 - 24 hour care
- Providers attempt to limit medical liability
- Patients and caregivers may feel threatened by being “reported” to the police, the ombudsman, or adult protective services
- Avoid repeat visits to the ER
- JD and the pacemaker – clinical capacity




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MDPOA OR GUARDIANSHIP

How Much Decision-Making Power Do You Need?


- Dementia or other diagnoses
- Medical complexity
- Can you trust healthcare providers?
- Does your family get along?
- The story of Peg and Tom
- Guardianship is "work"



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HOW TO GET GUARDIANSHIP OF A PARENT



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