

Guardianship Determination Considerations for Health Care Providers

Guardianship decisions are individualized.
There is no one size fits all and it's not all or nothing.

Recognize that various forms of treatments and supports can serve to improve a patient's functioning and capacities.

Ultimate Goals

- **Preserve** – to the maximum extent possible – each patient's independence in as many areas as possible, with necessary and available supports
- **Recognize** the potential for each patient's changing capacities, needs, and interests
- **Safeguard** each patient and others from unnecessary harm

What is the patient's ability to comprehend, evaluate, make, and communicate decisions – with or without assistance or supports – across various domains?

An impairment in one area does not necessarily mean lack of capacity in another area. Assess the patient's capacities to meet essential requirements for

- Self care
- Nutrition
- Clothing
- Physical health
- Medical care (risks, benefits, and alternative care)
- Housing
- Managing finances
- Use of transportation
- Functioning in the community
- Safety (including recognizing and resisting exploitation and undue influence)

Ensure the recommendations are based on the assessment of these capacities, not on speculations, opinions, or values. Guardianship recommendations can vary for different aspects of the patient's life.

What is the patient's ability to seek supports, advice, and find appropriate advisors?

If the patient is unable to make a decision independently but able to enlist help to make the decision, supported decision-making is an alternative to guardianship. This enables the patient to consult with others in decision-making when they do not have knowledge or ability to make a decision on his or her own.

What is the patient's understanding and willingness to have someone else make decisions for him or her?

A patient can select a person to make decisions for him or her. If the patient disagrees, he or she can override the decision.

When a patient is unable to express a decision of any kind, a guardian can be assigned and authorized to make decisions on his or her behalf.

A person's deep-rooted interests, dislikes, fears, and preferred traditions can often be observed through gestures and other non-verbal expressions. A guardian should always consider and honor the person's expressed wishes as long as they do not cause or have the potential to cause harm to the person or others.

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1

At age _____, initiate a discussion with patient and family about whether or not guardianship may be applicable.

2

As the patient nears age 18, introduce and provide access to the DDD NJCAT form to help parent/caregiver gather information about various levels of capacities.

3

Discuss the information with the patient and family and partner with them to determine what supports and/or guardianship may be needed.

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This workshop is provided through a supportive partnership with  KOHLScares