



Conflicts in guardianship

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Guardianship

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1. Game theory





The game and the stakes

- conflicts of interests
- conflicts of values
- mixing of interests and values



The game and the players

parties in guardianship:

- the incapable adult
- the guardian
- family-members: c1, c2, c3,....
- health-care professionals
- the judge
- other parties



The game and the rules

- players are supposed to act in accordance with the law and the rules
- the guardian is guided by the rules of his 'Code of Ethics' and 'Best Practices'
- the guardian sometimes has the authority to make the rules



The game and the gameplay

- players react to each other: action - reaction → interaction
- an action by a player is called a 'move'
- each move irreversibly changes the situation of the game
- the successive moves determine the gameplay



The game and the outcome

- the outcome is not what each party has wanted
- the gameplay has its own dynamics
- there are unintended and unforeseen consequences of social action



Game theory: conclusions (1)

- game theory in economics and mathematics, with its mathematical models and research, assumes that players are rational decision-making subjects
- people are more than that: they have emotions, feelings, passions, reputations, anger, frustrations, values, norms, tradition,



Game theory: conclusions (2)

- however, a rational approach can help us in decision-making processes
- real life is not a game, but sometimes there are game-like situations



2. The guardian in conflict





The guardian versus the ward

- the limitations of the ward involved play a role
- distinction between the message and the messenger
- guardian as the bringer of 'bad news'
- guardian as a 'street-level bureaucrat'



The guardian versus family-members

- appointing an outsider can take the sting out of a conflict
- getting the guardian to dance to their own tune
- the guardian as the 'common enemy'



The guardian versus health care

- the ward involved should get what he is entitled to
- care institutions consists of several players
- first option: consultation, mediation, going 'further up'
- make use of complaints procedure → 'working the system'



The guardian versus the judge

- never start a conflict with the judge: you will lose it
- but: unless the law says otherwise, the guardian is the person who makes the decisions, not the judge



The guardian versus other parties

- acting on behalf of the ward as the promotor of his interests
- negotiating with third parties: creditors, insurer, benefits agency, social security agency, and the like
- make use of complaints procedure, objection and appeal proceedings

3. The guardian as a mediator



..... or as an arbitrator



The guardian as an arbitrator

- the guardian makes decisions
- in the interest of the incapable adult
- in accordance of the law
- respecting moral standards of practice



4. The final goal of conflict:
to make peace


