THE GUARDIAN AND INFORMED CONSENT

Introduction

A fundamental responsibility of the guardian is to make decisions about the ward's personal affairs. In doing so, the guardian should exercise the utmost care and diligence, always with the idea of protecting the autonomy, independence and rights of the ward. This is most important when making treatment and/or medical decisions on behalf of the ward. The "Doctrine of Informed Consent" is the means by which the individual's autonomy, independence and rights are protected.

Informed Consent

"Informed Consent" is a person's voluntary agreement to allow something to happen that is based on full disclosure of facts needed to make the best decision in the given situation.

The guardian stands in the place of the ward and must be afforded the same information and freedom of choice as the ward would have received. Making an informed decision requires adequate information on the issue, and a lack of coercion so that the decision is voluntary. If any of these requirements are not met, an informed decision cannot be made.

Adequate Information

Anytime a decision is to be made, the guardian should ensure that he or she has adequate information on both the risks and benefits of the proposed actions, as well as the possible alternatives available. An effective guardian gathers this information by asking the following questions:

- What is the proposed treatment or action?
- What procedures will be followed?
- Who will perform the treatment or action?
- What are the possible risks, side effects, or discomforts?
- What is the intended outcome?
- What steps will be taken to minimize the risks?
- What alternatives are available?
- What will happen if nothing is done?
- Why now and not later?

Additionally, while evaluating this information, the guardian should consider any preferences of the ward that can be ascertained either currently, or prior to the appointment of the guardian. It may be appropriate and helpful to seek input from family members. It may also be necessary to seek a second professional opinion.

The guardian should not make a decision until all of the guardian's questions are answered in understandable terms. Every individual is entitled to a second opinion and should be sought if there are outstanding questions or if the guardian is uncomfortable with the information they have received.

Voluntary and Without Coercion

The guardian giving the "Informed Consent' should not be forced into the decision. It is incumbent upon the individual proposing the treatment or action to inform the guardian that he or she has the right to refuse consent and that once given, the guardian can withdraw his or her consent at anytime without risk of punitive action. The guardian should inquire about the ramifications to the individual, if consent is not granted. Additionally, guardians should understand that **once consent is given for an ongoing treatment or program, guardians can**

withdraw it at anytime in the future. It is therefore imperative that guardians monitor and evaluate the treatment closely once it is implemented.

A guardian can also give "time-limited" consent by stating in writing the date it becomes invalid. This is often effective when trying new medications or behavioral treatment plans.

When asked to give consent for long-term treatment programs, it is advisable to grant consent for a time period no longer than one year. This will require that the individual providing the treatment program once again ask you for your consent at the end of the 12 months, allowing the guardian to re-ask his or her original questions and any new ones he or she may have.

Conclusion

Using "Informed Consent," the guardian must:

- Ask questions until he or she is satisfied that he or she has all the information needed to make an "informed" or "the best" decision.
- Seek a second opinion if necessary.
- Evaluate whether the decision is in keeping with the ward's known wishes/desires.
- Evaluate whether the decision is in the ward's "Best Interest."
- Be clear about what is being consented to.
- Specify in writing the time frame of the consent.
- Monitor the ward's reaction to the treatment or action and withdraw consent if necessary.