

ALTERNATIVES TO GUARDIANSHIP

PERSON-CENTERED PLANNING:

Utilizing Natural Supports: Person-centered planning assumes that all individuals have preferences no matter how severe their disability and that decisions are best made by a recipient him/herself with the help of family, friends, and others in the individual's circle of support. Natural support persons cannot legally substitute for the judgment of the recipient. However, those persons who are most knowledgeable about and can best represent the recipient's values, wishes, and choices can act as adjunct decision-makers with the consent of the recipient.

Transition/Independence Planning: The choices for minors with disabilities reaching the end of school age can be complex and may determine how independent he or she is as an adult. Planning the transition from school to adult life begins, at the latest, during high school. Transition planning is required by law to start once a student reaches 14 years of age, or younger if appropriate. This transition planning becomes formalized as part of the student's Individualized Education Program (IEP). Transition services are provided by the school and are intended to prepare students to make the transition from the world of school to the world of adulthood. In planning what type of transition services a student needs to prepare for adulthood, the IEP Team considers areas such as postsecondary education or vocational training, employment, independent living, and community participation. The transition services are a coordinated set of activities that are based on the student's needs and that also take into account his or her preferences and interests. Ideally, transition services should be integrated with the minor's Person-Centered Plan.

Crisis Planning: Through the Person-Centered Planning process the recipient is offered an opportunity to develop detailed options for crisis resolution in the event he or she experiences an urgent situation to ameliorate the crisis and/or avoid a psychiatric emergency utilizing natural, community, and professional supports. The crisis plan also includes strategies and choices for treatment and for how the recipient's personal affairs will be managed in the event the emergency requires protective and/or restrictive measures.

Expanding Access to Mental Health or Community-Based Supports: Through the Person-Centered Planning process, providers explore and ensure that recipients are aware of adjunct supports which he or she may be eligible to receive from NLCMH or another community agency. These may include Community Living Supports, Peer Supports, Home Nursing, Home Health Aides, Chore Services, Home-Delivered Meals, Transportation, Bill-Payor Programs, etc.

LEGAL INSTRUMENTS FOR SURROGATE MEDICAL, MENTAL HEALTH, OR FINANCIAL DECISION-MAKING:

An individual who is of "sound mind" may execute a variety of legal documents expressing their wishes and/or designating another individual to act on his or her behalf to honor previously stated wishes in certain circumstances or under certain conditions. As guidance, the term "of sound mind" is the same test of capacity used for last wills and testaments created under the Estates and Protected Individuals Code (MCL 700.2501), but is only defined in Michigan case law.

Policy 106.1322, Guardianship and Alternatives – EXHIBIT A

Advance Directives or Living Wills (without Designation of Patient Advocate): While not legally binding in Michigan without the designation of a durable power of attorney or patient advocate, a legally competent individual may express, in writing, his or her wishes for treatment or care in the event of incapacity. If clearly expressed, these wishes must also be honored by a guardian appointed after the date they were created except under certain conditions allowed by law.

Non-Durable Power of Attorney: A legal document by which an individual grants in writing specified powers to a trusted person age 18 or older who acts as the individual's agent (attorney in fact) that is effective at a specified time or circumstance.

"Specific" or "Limited" Power of Attorney: A type of Power of Attorney that is for a single, specific, and time-limited purpose.

Durable Power of Attorney (General DPOA): A type of power of attorney by which an individual designates another person who is 18 years or older as his or her attorney in fact in writing and which is not affected by the principal's subsequent disability or incapacity and notwithstanding the lapse of time since the execution of the instrument (Estates and Protected Individuals Code, MCL 700.5501).

Designation of Patient Advocate for Medical and/or Mental Health Decisions (DPA-MH and/or HC): A type of Durable Power of Attorney whereby an individual designates in writing another individual who is 18 years of age or older to exercise powers and preferences concerning care, custody, and medical and/or mental health treatment decisions for the individual making the patient advocate designation in the event the person becomes incapacitated and who may be authorized to make an anatomical gift on his or behalf in the event of death (Estates and Protected Individuals Code, MCL 700.5506-5513, as amended; Designation of Patient Advocate).

Do Not Resuscitate Declaration (DNR): A document created and executed pursuant to the Michigan Do-Not-Resuscitate Procedure Act, PA 193 of 1996 directing that resuscitation will not be initiated in the event that the individual suffers cessation of both spontaneous respiration and circulation. A DNR Declaration is not legally binding in a hospital, a nursing home, or nursing home, or a mental health facility owned or operated by the department of community health. A DNR declaration may not be used in an Adult Foster Care home inasmuch as AFC Licensing Rules require staff to initiate and take life-saving measures if a resident has a medical emergency.

ALTERNATIVE MEANS TO PROTECT FINANCES:

Electronic Bill Paying: Many individuals who have difficulty paying bills can arrange to have them automatically deposited and paid directly from their bank accounts each month to a creditor

Pour-over accounts: Some banks have available a restricted access account that only leaves a specified sum of money in it for withdrawal at all times. Thus, someone who has problems managing their money will only be able to withdraw a limited amount of money at any give time.

Joint Property Arrangements or Dual Signature Bank Accounts: Joint property arrangements are where two or more people share ownership of real estate or bank accounts. A family member or trusted individual can be listed on a joint bank account so

Policy 106.1322, Guardianship and Alternatives – EXHIBIT A

that the other person can take care of their finances. A choice to create joint property arrangements or bank accounts should be very carefully considered since all persons listed have complete authority over monies in the account or over other property, giving rise to the potential for exploitation.

Fiscal intermediaries: An independent legal entity (organization or individual) that acts as a fiscal agent of an individual for the purpose of assuring fiduciary accountability for the funds comprising an individual's budget.

Special Needs Trusts: Sometimes referred to as a "amenities trust," this is a legal instrument that allows an individual with a disability to create a trust and designate a trustee to spend funds in the trust to enhance the life of an individual as a supplement to public funds. Such trusts may be especially useful for individuals with more than \$2000 in savings as a means of preserving funds without a loss of SSI or Medicaid benefits.

Representative Payee: A person designated by the Social Security Administration or to receive and manage federal benefit funds on behalf of an individual to meet his or her basic needs. The Social Security Act requires that a representative payee assist the beneficiary in gaining skills to regain independence and decision-making authority over his or her benefits.