



The Guardian

Guardianship Information for Increased Self-Determination ----- Vol. 1, Issue 2

Nothing About Me, Without Me

Missouri People First’s bi-annual conference was held on April 26, 2009, at the Tan-Tar-A resort in Osage Beach. The conference featured a workshop on guardianship, which showcased materials used in the Guardianship Project’s “Re-determining Guardianship Status” trainings.

The workshop was titled “Can I Change My Guardianship Status?” It was led by Lisa Sutherland, an attorney with Missouri Protection and Advocacy Services (Mo P&A), Elizabeth Moran, an attorney working for the Institute for Human Development at UMKC (IHD), and Jane St. John, a Community Inclusion Specialist with IHD.

Sutherland asserted that the Guardianship Project’s focus on empowering individuals with developmental disabilities to take charge of their lives, free from the restrictions of guardianship, is embodied in People First’s motto, “nothing about us, without us.” She said that individuals who want to be free from guardianship are saying “nothing about me, without me.”

Roger Crome, the president of Missouri People First, said that the Guardianship Project “will have real impact on people’s lives.”

The workshop explained that, while guardianship can provide an individual with needed support, it also restricts an individual’s rights.

“A guardianship creates a substitute decision-maker who has the authority to make decisions for you, including how to spend your money, where you will live, what kind of medical treatment you will get, who and what kind of services and supports you will receive, and even decisions about who you associate with,” Moran said.

Moran, Sutherland, and St. John shared alternatives to guardianship. The alternatives included, but were not

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Cristal Chapman

Determined To Be Heard

Cristal Chapman lives with her husband, Ray Chapman, in Springfield, Missouri. She enjoys knitting afghan rugs and taking care of her family’s dog, cat, and pet birds. She also likes to work with groups in her community. For four years, Cristal Chapman was barred from much of what she is grateful for today because of the restrictions placed on her by guardianship.

“If you have a guardian, it’s like you don’t have a voice,” she said.

Chapman, who is 38-years-old, was diagnosed with bi-polar disorder in her youth. In January 2005, she was looking for help in a stressful time and was, instead, deceived by someone she trusted.

She was placed under the guardianship of a public administrator, who then moved her to a residential care facility.

“A doctor told me I could get therapy, but I didn’t see a psychiatrist or psychologist for a whole twelve months,” Chapman recalls. “There was a lot of abuse in the facility. It was a nightmare.”

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limited to, obtaining community support, using legal agreements such as power of attorney, and the establishment of joint bank accounts and trusts.

Moran presented the workshop's attendees with a chart designed to aid individuals who were considering guardianship. Activities that a person with a developmental disability might need assistance with are listed on the chart. Using the chart, one could indicate whether help is needed with a specific activity, and what resources are available for assistance. Guardianship, the most restrictive option, was listed as a last resort.

"It can be a stressful time when a family member with a disability is becoming an adult," said St. John. "There is pressure from well-meaning professionals or friends to 'protect' that person. I hope people take some time and try some of the alternatives to see what is going to work best for their unique situation."

By the end of the workshop, guardianship, the alternatives to guardianship, and how to gain access to the alternatives had been thoroughly discussed.

A workshop participant said that she found the information very helpful, and would be looking forward

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At one point, Chapman was denied communication with her husband of thirteen years. A period of six months passed before she was allowed to talk to him again.

"I wrote letters to my guardian, explaining what was happening, but it's like you can't be heard," Chapman said.

In March 2008, the facility Chapman resided in was closed after it failed a series of government reviews. Guardianship was transferred to Chapman's father-in-law. She was trying to have her rights restored when her father-in-law passed away. Her plans were undermined when her mother-in-law was designated her guardian.

Chapman's mother-in-law began arguing with her. Chapman had returned to her community, but she was kept from becoming involved. She wanted to see a therapist she knew, but her mother-in-law denied her that right. She wanted to join the Transitions program offered by Springfield's Burrell Behavioral Health Center, but was kept from joining that group.

"My mother-in-law wasn't thinking straight," Chapman explained. She said that personal disagreements she had with her mother-in-law led to her being kept from doing what she wanted to do.

to the Guardianship Project's more extensive, "Re-determining Guardianship Status" trainings. She explained that a friend of hers, who was also at the training, was not able to spend his money on what he wanted because his guardian did not like the independence it would allow him.

Everyone who attended the workshop was given information about the Guardianship Project's future trainings and legal services. If you would like more information on the Guardianship Project, contact Missouri Protection and Advocacy Services at 1-800-392-8667.



Workshops begin at Missouri People First's Conference

Chapman's mother-in-law petitioned the Greene County Circuit Court to end her duties as guardian in October 2008. The court arranged a hearing to determine Cristal Chapman's guardianship arrangement.

Determined to restore her rights, Chapman visited the National Alliance on Mental Illness's (NAMI) Springfield office. She was given a brochure for Missouri Protection and Advocacy Services (Mo P&A). After Chapman submitted her application for services, Staff Attorney Lisa Sutherland told her she could provide assistance as part of the Guardianship Project.

"Lisa was somebody who was really interested in my well-being, and she was there for me," Chapman said.

Lisa Sutherland assisted Chapman and, on January 13, 2009, Cristal Chapman's rights were restored.

"I prayed for a long time, and my prayers may not have been answered right away, but they certainly were that day," Chapman said.

In April 2009, Cristal Chapman fulfilled her desire to become a member of the Transitions team at Springfield's Burrell Behavioral Health Center. She also volunteers at NAMI every week. She wants people to understand how guardianship can be restrictive, and to share the alternatives to guardianship.

What Are the Alternatives to Guardianship?

People with mental or physical disabilities do not automatically require a guardian. Since guardianship involves the loss of fundamental rights, it should only be considered if a person cannot make informed decisions on their own, or when supported in their decision making.

One of the easiest ways to build the supports needed to avoid guardianship is to ask family and friends for assistance. Being vocal about your needs allows you to build a network of people you can rely on when you need help.

There are many arrangements that you, a family member, an advocate, or a trusted individual in the community can make so that life is a little easier.

Help with Decision Making

For important decisions, one might consider entering into legal contracts.

Power of attorney, a written legal document that lets a competent individual designate another person to act on his or her behalf, can be used to give another person authority to make decisions regarding specified legal or financial matters. Unlike a guardian, an attorney can be fired.

A health care power of attorney (HCPOA) is a legal document that allows someone to make health care decisions for another person when the other person is unable to do so. A HCPOA must be prepared and signed when you are considered competent, and it gives you the right to specify both the types of treatment you do not want as well as the treatment you do want. The attorney can only make decisions when you are unable to do so.

Money Management

If assistance with managing money is required, there are many options that do not involve the establishment of a guardian.

Banks offer limited and joint bank accounts that allow several individuals to cooperatively manage money. Direct deposit programs can ensure that money is transferred directly to the account so that everyone on the account can keep track of money received from work or benefits.

A representative payee can be established when you would rather have another person, or even an organization, receive money to be used on your behalf. A representative payee is available for Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Veterans' Affairs (VA) Benefits, Railroad Retirement Benefits, and Black Lung Benefits.

Trusts can also help you save money.

A living trust is established by a grantor, or trustor, on behalf of another person, the beneficiary. The grantor, or a third person, can act as the trustee, who manages the trust on behalf of the beneficiary. The trust exists as a legal entity, separate from the grantor, and continues to exist even if the grantor dies. The probate court is not involved in a living trust, and the trustee can give funds from the trust to the beneficiary without involvement from the court.

A special needs trust, or supplemental benefits trust, is established to provide benefits for a beneficiary without causing the beneficiary to lose public benefits such as SSI and Medicaid. A special needs trust can be established by a grandparent, sibling, son, daughter, or a friend. The court can also establish a special needs trust. The special needs trust cannot be established by the intended beneficiary (the individual who receives the trust's funds). There are three different kinds of special needs trusts, and they can be used for the purchase, rental, or repair of a home, payment of utilities, payment of taxes, vacations, equipment, medical costs not covered by Medicaid, and attorney or advocacy fees.

Personal Safety

There are several options to consider when you seek personal safety from those who may harm you.

If a person with a developmental disability lacks the capacity to protect his or herself, a court may order a County Developmental Disabilities Board to provide adult protective services in cases where abuse and neglect is occurring.

Protection orders or temporary restraining orders (TROs) can be obtained by asking the court to provide you with legal protection from an individual who is hurting or threatening you. The court will order the abusive individual to stay away from you, or face legal action.

All adults should be considered competent and able to make choices about their lives. Sometimes, people may require help making decisions, and help can be provided in many different ways. Guardianship can provide an individual with needed assistance, but it also takes away many of the individual's rights. It is best to consider other options before placing anyone under the control of a guardian.

Guardianship Project Collaborators

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The mission of the Guardianship Project is to empower individuals with developmental disabilities and their families to make informed guardianship decisions and achieve appropriate guardianship status.

Thinking about Guardianship?

- ✓ Are you a person who has a guardian? Did you know there might be options you're not aware of that would work for your situation and help you regain some of your rights?
- ✓ Are you a parent or a family member who is concerned about the safety or protection of a family member with a disability? Has someone suggested that you should pursue guardianship?
- ✓ Are you a professional who works with individuals or families who may be considering these issues?

The Guardianship Project can help you make decisions about guardianship by providing information, training, and legal aid.

Contact Missouri Protection & Advocacy Services at 1-800-392-8667.