

SUPPORTED DECISION MAKING

FOR SERVICE PROVIDERS

An alternative to guardianship that gives individuals with disabilities the support they may need in making important life decisions.

Many options, other than guardianship, are available to provide counsel, guidance and assistance with making decisions. The principles of Informed Choice, Person Centered Planning and Self-Determination dictate that adults with disabilities are respected and supported in making their own life decisions. Individuals who can make life decisions with support from others around them should be enabled to do so.

Supported Decision Making is recognized as a less restrictive alternative to guardianship; whereby, trusted supporter(s) are afforded the legal status to be with the adult, participate in discussions, help gather and evaluate information, consider and communicate decisions so individuals with Intellectual/Developmental Disabilities understand the situations and choices they face and can make their own decisions without the need for a guardian.

Terms to Know

- Agreement = something that you say you are going to do
- Guardianship = a legal proceeding that can remove civil rights and privileges of an individual by assigning control of his or her life, or aspects of their life to someone else
- Provider = someone who is paid to take care of you
- Supporter = someone who gives you ideas and lets you decide
- SDM = Supported Decision Making
- Witness = someone who agrees to the genuineness of a document or signature by adding their own signature.

- Supported Decision Making is a way for people who need a little help to get that help but to also allow providers to freely accept their decisions and consents without fear of liability.
- Supported Decision Making addresses a cultural problem where people who have a disability may be judged by the outside world and barred from decisions others make without being questioned.
- Supported Decision Making is a contract between the person being supported and their supporter(s). The supporter(s) agrees to assist the individual in receiving and/or evaluating information that will help the individual make the right choice for themselves. It might not be what you or the supporter(s) would choose in their shoes.
- Supported Decision Making is **NOT** a guardianship, proxy for decisions, or power of attorney.

For example: A patient, after working with their supporter(s), consents to a dental procedure that involves anesthesia. The supporter(s), the patient's dear friend, waits in the lobby for an update on their condition. Can you update them?

Only if the patient has signed a release allowing you to do so or if their Supported Decision Making agreement specifically allows for release of information. In this situation, the patient isn't present (or even conscious) so the right practice and procedure would be to secure the individual's consent to how they want information shared or communicated with their supporter(s) if they are not present.

What Does That Mean for You?

- It means you address the individual, often in the presence of their supporter(s) (if they don't want the supporter(s) present that is okay) and inform them of the choices and resources available to them.
- It means that the supporter(s) is available to the person being supported – to be present when they are receiving information and making decisions but also to help them research or get more information before they make a decision.
- It means that the supporter(s) does not have to be present for the individual to make a decision or receive information.
- It means that you are doing something you are probably already doing: being someone who is trusted to be patient and honest, without trying to coax the supported person into one choice or another.
- It means that, unless the individual has explicitly agreed or indicated, you should not be communicating with their supporter(s) outside of the presence of the individual.
- It means that the supporter(s) cannot and shall not make their decisions for the individual.
- It means that sometimes the person will make a decision you, or their supporter(s), don't agree with, and that's okay!
- It means that the decision of the individual is treated like the decision of any other person you may be serving.

What if the Supporter(s) is Not Following the Law?

If you observe that a supporter(s) is trying to make a decision for someone, exceeding the scope of the decisions they can help with, or trying to coerce the individual they are supporting, there are resources available to the supporter(s) to remind them of their role.

Person Centered and Directed

Supported Decision Making is part of a broader movement to put individuals in control of the decisions they make. They may need help receiving information before making a choice, or perhaps evaluating different options, but with the Supported Decision Making Agreement they can be protected from people thinking that because they need help making a decision, they need a decision maker.

The Agreement

Nevada law says the agreements must:

- Be in writing
- Name one or more supporter(s)
- Say what the supporter(s) can and can't help with
- Be signed by the individual and their named supporter(s)
- Have two witnesses

What does this mean? Supported Decision Making agreements come in all shapes and sizes. If the document has the basics under Nevada Law (NRS 162A.XXX, AB480), you're ready to go.

For More Information

- Nevada Governor's Council on Developmental Disabilities | NevadaDDCouncil.org | 775-684-8619
- Aging and Disability Services Division | ADSD.nv.gov/ | 775-684-4210
- Nevada Disability Advocacy and Law Center | NDALC.org | 800-992-5715
- Washoe Legal Services | washoelegalservices.org | 775-329-2727 has templates to review

*This flyer is not meant to replace legal advice. It is for informational purposes only. Adapted from Wisconsin Board for People with Developmental Disabilities. This publication is a partnership between the Nevada Governor's Council on Developmental Disabilities and the Nevada Department of Health and Human Services Aging and Disability Services Division.