**PRACTICAL Tool for Lawyers: Steps in Supporting Decision-Making**

The PRACTICAL Tool aims to help lawyers identify and implement decision-making options for persons with disabilities that are less restrictive than guardianship. It is a joint product of four American Bar Association entities – the Commission on Law and Aging, Commission on Disability Rights, Section on Civil Rights and Social Justice, and Section on Real Property, Trust and Estate Law, with assistance from the National Resource Center for Supported Decision-Making. Learn more about the PRACTICAL Tool and Resource Guide at www.ambar.org/practicaltool.

### PRESENCE

**PRESUME** guardianship is not needed.

- Consider less restrictive options like financial or health care power of attorney, advance directive, trust, or supported decision-making
- Review state statute for requirements about considering such options

### REASON

**REASON.** Clearly identify the reasons for concern.

Consider whether the individual can meet some or all of the following needs:

<table>
<thead>
<tr>
<th>Money Management:</th>
<th>Personal Decision-Making:</th>
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<tr>
<td>Managing accounts, assets, and benefits</td>
<td>Understanding legal documents (contracts, lease, powers of attorney)</td>
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<td>Recognizing exploitation</td>
<td>Communicating wishes</td>
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<td>Health Care:</td>
<td>Understanding legal consequences of behavior</td>
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<td>Making decisions about medical treatment</td>
<td>Employment:</td>
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<td>Taking medications as needed</td>
<td>Looking for, gaining, and retaining employment</td>
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<td>Maintaining hygiene and diet</td>
<td>Relationships:</td>
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<td>Avoiding high-risk behaviors</td>
<td>Avoiding common dangers</td>
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<td>Personal Decision-Making:</td>
<td>Recognizing and avoiding abuse</td>
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<tr>
<td>Understanding legal documents (contracts, lease, powers of attorney)</td>
<td>Knowing what to do in an emergency</td>
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**Community Living:**

- Living independently
- Maintaining habitable conditions
- Accessing community resources


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**ASK** if a triggering concern may be caused by temporary or reversible conditions. Look for steps to reverse the condition or postpone a decision until the condition improves.

Are concerns the result of or related to temporary or reversible conditions such as:

- **Medical conditions**: Infections, dehydration, delirium, poor dental care, malnutrition, pain
- **Sensory deficits**: hearing or vision loss
- **Medication side effects**
- **Psychological conditions**: stress, grief, depression, disorientation
- **Stereotypes or cultural barriers**

**COMMUNITY.** Determine if concerns can be addressed by connecting the individual to family or community resources and making accommodations. Ask “what would it take?” to enable the person to make the needed decision(s) or address the presenting concern.

Might any of the following supports meet the needs:

- **Community Supports**:
  - In-home care, adult day care, personal attendant, congregating and home delivered meals, transportation
  - Care management, counseling, mediation
  - Professional money management

- **Informal Supports from Family/Friends**:
  - Assistance with medical and money management
  - Communication assistance
  - Identifying potential abuse

- **Accommodations**:
  - Assistive technology
  - Home modifications

- **Residential Setting**:
  - Supported housing or group home
  - Senior residential building
  - Assisted living or nursing home
**TEAM.** Ask the person whether he or she already has developed a team to help make decisions.

- Does the person have friends, family members, or professionals available to help?
- Has the person appointed a surrogate to help make decisions?

**IDENTIFY abilities.** Identify areas of strengths and limitations in decision-making if the person does not have an existing team and has difficulty with specific types of decisions.

Can the individual:
- Make decisions and explain his/her reasoning
- Maintain consistent decisions and primary values over time
- Understand the consequences of decisions

**CHALLENGES.** Screen for and address any potential challenges presented by the identified supports and supporters.

Screen for any of the following challenges:

**Possible challenges to identified supports:**
- Eligibility, cost, timing or location
- Risk to public benefits

**Possible concerns about supporters:**
- Risk of undue influence
- Risk of abuse, neglect, exploitation (report suspected abuse to adult protective services)
- Lack of understanding of person’s medical/mental health needs
- Lack of stability, or cognitive limitations of supporters
- Disputes with family members
**APPOINT** legal supporter or surrogate consistent with person’s values and preferences.

Could any of these appointments meet the needs:

- Agent under health care power of attorney or advance directive
- Health care surrogate under state law
- Agent under financial power of attorney
- Trustee
- Social Security representative payee
- VA fiduciary
- Supporter under representation agreement, legally or informally recognized

**Observations and Notes:**

**LIMIT** any necessary guardianship petition and order.

If a guardian is needed:

- Limit guardianship to what is absolutely necessary, such as:
  - Only specific property/financial decisions
  - Only property/finances
  - Only specific personal/health care decisions
  - Only personal/health care decisions
- State how guardian will engage and involve person in decision-making
- Develop proposed person-centered plan
- Reassess periodically for modification or restoration of rights

**Observations and Notes:**

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